

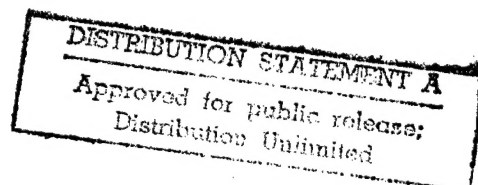
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26 June 1984

# East Europe Report

POLITICAL, SOCIOLOGICAL AND MILITARY AFFAIRS



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26 June 1984

EAST EUROPE REPORT  
POLITICAL, SOCIOLOGICAL AND MILITARY AFFAIRS

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STRICTER ENFORCEMENT OF WORK DISCIPLINE, LAW ADVOCATED

East Berlin NEUE JUSTIZ in German No 4, Apr 84 pp 153-154

/Article by Dr R.-U. Korth, Public Prosecutor with the Public Prosecutor's Office, Leipzig bezirk: "Further Consolidation of Law, Order and Safety in National Economy"/

[Text] The research group "prevention of and struggle against crimes in enterprises and combines," active at Karl-Marx University, Leipzig, since 1981, conducted a working session in the Heavy Machine Construction Lauchhammer Works VEB, attended by representatives of the GDR General Prosecuting Attorney, staff from the Ministry for Construction of Heavy Machinery and Equipment (MASB), scholars from the Karl-Marx University and managers and senior executives of state enterprises, combines and state organs. This interdisciplinary colloquium discussed safeguards for the sure protection of our national economy as well as the prevention of and struggle against infractions of order, discipline, safety and legality in enterprises and combines.

The exchange of experiences, moderated by Prof D. Seidel (Karl-Marx University Leipzig), focused on problems regarding

-- The outward shapes, causes and circumstances of violations of the law by managers in the exercise of their economic decisionmaking, in particular consideration of the needs of the speedier application of scientific-technological advances,

-- The effectiveness of socialist law in the prevention of and struggle against such violations of the law, and

The penal protection of the national economy against illegal attacks.

The permanent guarantee of order, discipline, safety and legality is an objective requirement. It was noted unanimously that more and more working people in all sectors of our national economy are making every effort to safeguard the unity of production, safety and legality in all stages of the reproduction process and effectively prevent economic losses. The undisciplined, careless and, ultimately, irresponsible behavior of some individuals may, however, result in sometimes appreciable economic damage and, often, in human suffering also.

W. Fischer, (section manager at the MSAB) reported on the experiences and tasks of MSAB enterprises and combines regarding the safeguarding of order, discipline, safety and legality. He said that the positive attitude of

employees with managerial functions is vital because, in their capacity as state managers in the socialist national economy, these people are responsible for a satisfactory working climate and for intolerance toward idleness, defects in accident prevention and carelessness in handling socialist property. In future even greater attention will be needed for the increase in the stimulating effect of socialist law for safeguarding the rise in national output and the evolution of socialist management personalities, both in the practice of combines and enterprises and also in science. This presumes a clear organization and all-round implementation of the law, and the necessary unity of management, planning and supervision of economic processes must at all times be secured. Coupled with this is the duty of every manager in a differentiated and consistent manner to respond to offenses against the law and to economic losses.

M. Richter (director, Halberstadt Machine Construction VEB) explained how these processes may be effectively influenced by the socialist competition in enterprises and combines. To improve the conduct of the competition, this enterprise has successfully adopted balanced competition accounting. This catches costs and losses which used to, unplanned and up to now without consequences for the perpetrator, adversely influence economic results. This includes excess costs arising from wrong work processes (such as divergences from the prescribed materials, the use of other than technologically prescribed machines, lacking or defective equipment, wrong work instructions), not plannable costs (such as contract penalties, compensation for damage, economic penalties, demurrage) and other adverse factors (such as damage to and insufficient utilization of capital equipment, losses in stock keeping and warehousing or excess packaging and energy consumption costs). As the result of the balanced competition account, any economic losses incurred are debited in the record book of workers' performance to those collectives, who caused them. This stimulates the collectives to eradicate the causes and circumstances resulting in such losses and to seek new approaches to making good the losses. Encouraged thereby is the sense of responsibility and the interest of every collective and every worker for the eventual economic results.

From the standpoint of the public prosecutor's office, the experiences obtained in the scope of the MSAB were assessed as instructive for other economic sectors also. Dr K.-H. Prabutzki (GDR General Prosecuting Attorney's office) and S. Fichtler (public prosecutor's office Halle bezirk) emphasized that it was the responsibility of the justice and security organs, the other state and supervisory organs and, above all, the managers in enterprises and combines to appropriately punish all infringements of socialist legality consonant with the economic, political and legal nature of the offense, initiate the most effective measures to prevent any repetition and consistently check their enforcement. The majority of crimes against the law and enterprise order are not felonies, but it must be appreciated that they offer a fertile soil for crime. It is therefore imperative to devote the utmost attention to the repression of these misdemeanor offenses against the law and discipline. Consequent on their legal responsibilities, therefore, the managers of the respective economic units must at this point meet their obligation

-- Resolutely to protect the national economy and foreign trade relations against hostile challenges,

To protect the life and health of the working people and preserve national values from losses by breakdowns, fire and accidents,

--To effectively prevent the waste of economic values,

--To guarantee orderly energy, materials and spare parts management,

--To enforce price, investment and financial regulations consonant with the national economic plan,

--To resolutely oppose all kinds of illegal personal favoritism,

--To confront asocial behavior, lack of discipline and idleness, and

-- To purposefully encourage innovator efforts.

Dr R. Schrammel (GDR State Audit Office) and M. Katzer (department manager, GISAG Combine VE) agreed with these requirements and pointed out that the national economy is being more efficiently protected against damage and losses with the help of economic accounting and checks, especially following the new legal regulations.<sup>2</sup> On the other hand, this involves greater challenges to the management with regard to the internal checks of the use of material and financial funds, which need to be fully appreciated and applied.

Dr R.-U. Korth (Public Prosecutor's Office, Leipzig bezirk) stressed the particular connection between the perfection of the economic mechanism, the guarantee of the protection of socialist property and communist education. It is imperative to further develop the consciousness of socialist property among the managers also and in all sectors of the national economy, and strengthen personal responsibility for the implementation of the law. An important prerequisite for the comprehensive protection of socialist property and the national economy is represented by the readiness of all working people jointly and effectively to use what has been jointly produced, and to preserve it from illegal attacks, exercise intolerance toward negligence in the management and planning process and their capacity to maintain effective checks on the observance of legality.

In the following discussion, the attendants at the colloquium unanimously noted that the unity of production and safety, of law and economic efficiency must be safeguarded in all sectors of the national economy. Economic assignments, therefore, may not be unilaterally pushed to the fore, because this might ultimately lead to a confrontation between legality and subjective usefulness. On the other hand, the profitability of economic processes must be kept in mind even upon consideration of safety aspects.

In this context, Prof M. Koch (civil engineering section, Dresden Technical University) drew attention to the imperative need precisely in this age

of scientific-technological progress, for economic decisionmaking fully to exploit the status of science and all the abilities of the engineers, in order better to appraise the justifiable risks involved in the accomplishment of technical tasks and restrict them to a minimum. He considers decisive here the aspect of the safety, economic efficiency and reliability of production.

Dr C. Hagen (GDR Supreme Mining Office) and Dr P. Oehme (Rosswein Engineering College) pointed out that the legal regulations of the problems of safety and economic efficiency must be organized taking into account conjectural processes. Such conjectural processes must, for example, be kept in mind by the computation instructions for the determination of the probability of failure of scientific-technological solutions. Decisions on economic risks are subject to a differentiated legal evaluation, and legal responsibility and culpability are not involved in every economic loss.

The scientific colloquium generally helped to encourage the ongoing interdisciplinary cooperation between scientists and practitioners for the protection of our national economy against losses and to reinforce legality, order and safety in enterprises and combines.

#### FOOTNOTES

1. NEUE JUSTIZ 1982, No 6, p 273, reported on the working session of this research group, conducted in 1982.
2. See the surveys on recent legislation in NEUE JUSTIZ 1983, No 8, p 325; NEUE JUSTIZ 1983, No 11, p 456, and NEUE JUSTIZ 1984, No 2, p 59; E. Wittkopf, "Annual Reporting in the State-Owned Economy," NEUE JUSTIZ 1983, No 10, p 404.

11698

CSO: 2300/509

GERMAN DEMOCRATIC REPUBLIC

HEALTH CONFERENCE REPORT FOCUSES ON ALCOHOL ABUSE

East Berlin ZEITSCHRIFT FUER MILITAERMEDIZIN in German Vol 25 No 2, 1984  
pp 88-90

[Report on the Seventh National Conference on Health Education in the GDR  
by Lieutenant Colonel Dr G. Wagner, Lieutenant Colonel Dr B. Waack and  
Colonel H. Lebrecht]

[Text] Health Education, Population, GDR

-- Demand for a healthy lifestyle

-- Conference, Report

From 11-13 October 1983, the GDR National Committee for Health Education conducted the Seventh National Conference on Health Education in the GDR German Hygiene Museum in Dresden. The conference, moderated by National Committee president, OMR [chief public health officer] Prof S.E. Strauzenberg, had as its main topic "the socialist lifestyle and health."

Seven hundred representatives from state organs, social organizations, scientific and medical facilities reported on the status, key issues and main tasks related to the further development of health education, its contribution to the encouragement of the socialist lifestyle and its integration in all sectors of social life.

OMR Prof L. Mecklinger, GDR minister for health, delivered the main report on the "contribution of health education to the further organization of the socialist lifestyle." He explained the political, ideological and technical orientations of health education, its status in the total societal process of shaping the personality and the conception for the further development of healthy living. The Minister for Health stressed the obligation actively to cooperate in the preservation and safeguard of peace as the most important prerequisite for the preservation and promotion of health.

Subsequently, in response to the challenging conference topic, he emphasized the following aspects:

-- The socialist lifestyle and a healthy life include both the responsible conduct of one's personal life as well as the conscious assumption of responsibility for the health of other people and the active involvement in the provision of such conditions as will guarantee a healthy life for everybody.

-- Healthy living is an element of the socialist lifestyle, a total societal and personal concern. The substance and effect of a healthy life are determined by objective social circumstances.

-- A healthy life serves the evolution of all-round educated and harmoniously developed socialist personalities. That is why all citizens of our country must be recruited and enabled even more to meet their joint responsibilities for health, efficiency and well-being.

Minister Mecklinger analyzed the results so far achieved in the realization of a healthy mode of life and, among other points, emphasized the beneficial developments in leisure and recreational sport, the promotion of non-smoking and the use of preventive medicine. At the same time he indicated some persistent problems such as overeating and obesity, the rise in the per capita consumption of alcoholic beverages and passive leisure organization.

The minister stressed that all efforts for a healthy life must begin with ensuring that health and capacity can be trained and stabilized, and that health is the prerequisite for the enjoyment of life and, indeed, an enjoyment per se. Consequently the effective health education of GDR citizens must

-- Encourage the further evolution of the socialist lifestyle,

-- Become more effective by way of health publicity,

-- Firmly orient itself to social conditions and to a greater extent rely on the collectives (family, work, sports and leisure collectives),

-- Develop stable motivations for a healthy life, and

-- Be purposefully pursued as an ongoing objective, in other words not rely on campaigns alone.

The report by the Minister for Health was followed by 14 plenary lectures, delivered by respected representatives of state organs, social organizations and scientific facilities. This part of the conference was inaugurated by a contribution from Prof E. Luther, Dr W. Caspar and Dr P. Giersdorf, "lifestyle, life expectation and health." This demonstrated the connection between lifestyle, morbidity and mortality by way of the changes recorded in the past 300 years.

Two more plenary lectures were delivered by Prof R. Noack on the "influence of nutrition on health, efficiency and well-being," and Prof H. Haenel on "approaches to modern nutritional education." The lecturers sketched the current nutritional situation in the GDR and the pertinent problems of an effective nutritional education and the relations between health, nutrition and the enjoyment of life.

W. Berg, vice president of the DTSB [German Gymnastics and Sports Federation], lectured on "physical culture and sport as the substance of health education." He called for all citizens to have access to regular sporting activities

and stressed the necessity for providing sports facilities appropriate to the various age groups and beginner-friendly.

OStR [senior high school teacher] K. Dietzel, deputy to the minister for popular education, presented the "contribution of teachers and educators to the encouragement of a healthy life." Building on the results achieved in preschool education, the health education of children and juveniles by teachers and educators is a very important element of the pedagogical process and can be realized only in close cooperation with the parental home. At the same time it is imperative to further develop the children and juveniles' own responsibility for their health and capacity.

"Discouragement of smoking," a significant aspect of a healthy life, was the focus of the lecture by OMR Prof H.-. Ganguin. The social appraisal of smoking, the increasing enforcement of legal bases and the stagnation in per capita consumption of tobacco products, evident since 1980, indicate a welcome trend in the discouragement of smoking by GDR citizens.

Prof J. Neumann reported on the "perils of alcohol abuse and their avoidance." He stressed in particular the problem of the uncontrolled use of alcoholic beverages and extreme attitudes to alcohol of some of our young and, in conclusion, pointed out the necessity for very skillful yet easily assimilable information of our citizens on the dangers of alcohol.

The plenary lecture by Dr W. Kiehl and Dr R. Ullmann dealt with the "teaching of the hygienic organization of life and living conditions." They indicated the relation between such terms as education in hygiene, hygiene and environmental consciousness on the one hand and a healthy life and a socialist lifestyle on the other. As key issues they mentioned hygiene in the residential district, water and soil protection, the hygiene of the recreational system, food and nutrition hygiene and the special prevention of infectious diseases.

"The socialist lifestyle and its relation to the lifestyle of the family," was the key issue of the ninth plenary lecture, delivered by Prof H. Kuhrig.

Subsequently Prof K. Hecht reported on the "psychohygienic organization of life and its significance for the evolution of a healthy life."

Specially trained cadres are an essential prerequisite for efficient health education. Prof G. Karsdorf therefore spoke about "health educational tasks in training and further education." These include basic health educational training and centrally organized further educational measures.

"Health education and capacity, an important contribution to the observance of the constitutional right and honorary obligation of GDR citizens for the defense of the socialist fatherland," was the topic of the plenary lecture by Colonel Dr R. Hornei, member of the presidium of the National Committee for Health Education in the GDR. The lecture explained the tasks, key issues and objectives of health educational measures to prepare GDR citizens for conscript service, during their conscript service and after its conclusion in order to maintain the best possible physical and



mental capacity. The special significance of health and capacity for safeguarding the greatest possible defense preparedness was also stressed in the majority of the plenary lectures.

The contribution of the GDR DRK [German Red Cross] and URANIA [society for the distribution of scientific knowledge] to persuading citizens to lead a healthful life was the topic of the concluding lectures by Dr Hagemoser, GDR DRK vice president, and Prof L.-G. Fleischer, vice president of URANIA.

Both lecturers declared the readiness of their organizations to assume particular and specific responsibility for the enlightening, motivating and educational function of health education.

After the conclusion of the plenary meeting, the conference continued with three symposiums.

Symposium I dealt with "health education in the family, in childhood and adolescence." Discussed here were problems of health education from infancy to professional training and the tasks to be accomplished in this context by the organs and facilities of popular and vocational education as well as by the Pioneer and FDJ organizations.

Symposium II concerned itself with "health education in work collectives in industry and farming." Among the topics discussed were the influence of working conditions on the development of the personality, health education on the job, the working people's obligation to preserve their health, the utilization of industry-specific opportunities for health education and the further definition of research with regard to the organization of health education in industry and agriculture.

"The contribution of medicine and the health service to the encouragement of a healthy mode of life" was discussed in Symposium III. This focused primarily on the special responsibility of medical science and the more than 500,000 employees of the health and social services for the health education of GDR citizens. The personnel of the health service are able to boast of commendable successes in preventive health protection and health advice in the process of medical care. Reserves are considered to still exist from the aspect of a differentiated inclusion of health education in the work with the patients, the faster generalization and spread of good methods and means, the active influence of health and social service employees on other social sectors, institutions and organizations, and the continuing precise definition of the specific training and further education in the field of health education of all cadres of the health and social services.

Following parallel workshops on the morning of the third day of the conference, such as the showing of health education movies and a session on publicity, Prof S.E. Strauzenberg, president of the National Committee for Health Education, estimated that the conference had achieved its political and technical objectives. Summarizing the results of the detailed discussions of the theoretical problems of health education and the approaches to and methods for its practical application, Professor Strauzenberg formulated general methodological principles for health education as follows:



-- Health education in the GDR needs to be tackled positively, indeed motivated positively.

-- Assignments for health education must be realistic.

-- Cooperation among all those responsible for health education needs to be further improved.

-- Publicity must proceed in planned cooperation with the mass media.

-- The practical measures for affecting a healthy mode of life must be reinforced.

The commanders of the National People's Army and the GDR Border Troops comprehensively define the socialist lifestyle and healthy life on the basis of military regulations with the involvement of the political organs, the medical service, the party and mass organizations and organize them to be a conscious experience for every member of the army and civilian employee.

In order to utilize the results of the Seventh National Conference on Health Education and incorporate them in the ongoing evolution of health education in the National People's Army and the GDR Border Troops, we must so define and realize the key issues and objectives of health educational measures as to shape them into a direct and accountable contribution to our fighting strength and combat readiness.

11698

CSO: 2300/515

## GERMAN DEMOCRATIC REPUBLIC

### PROGRAMS TO REDUCE WORKER ILLNESS EXPANDED

East Berlin PRESSE INFORMATIONEN in German No 44, 12 Apr 84 p 4

[Article by Dr Wolfgang Bachmann, Ministry for Health]

[Text] Industrial hygiene conditions in GDR factories have been systematically improved during the past few years. Among other indications, this is reflected by the fact that in 1983 newly diagnosed occupational illnesses declined to only 78 percent of the number diagnosed in 1970. The work of the industrial hygiene inspection teams contributed significantly to this progress. These teams, functioning on behalf of Bezirk and Kreis councils, advise and inspect shop foremen and union leaders as to the fulfillment of their responsibilities for the protection of employee health.

Factory health facilities too have a counseling function as to working conditions and procedures, especially as concerns the health and well-being of individual workers. However, their main mission consists of industrial medical monitoring of employees in hazardous occupations and of their treatment.

#### Close Cooperation With the Workplaces

Industrial hygiene inspection teams were established 30 years ago at the Bezirk level and initially concentrated their efforts on eliminating the major health hazards in the workplace which we had inherited from capitalism. The most important one of these were silicosis and occupational toxic hazards. Among the first tasks of these teams were the provision of instruction in industrial hygiene principles as well as the enlargement and expert standardization of industrial health care facilities. From the very beginning the teams stressed close cooperation with the employers, with other inspection groups, local factory and territorial health care facilities, with the FDGB [Free German Labor Union Federation], with the GDR's German Red Cross, as well as with the workers themselves.

Today there are efficient industrial hygiene inspection teams in almost all Kreise; their radius of action is constantly widening. They implement their inspection and counseling duties for adherence to regulations concerning the health maintenance of the workers in a comprehensive, systematic and strict manner. The teams are active in the elimination of health hazards in existing jobs and in making sure that in major construction and economy

measures, as well as in projects using new tools and technologies there is industrial hygiene consultation from the very beginning, so as to make prospective working conditions free from occupational hazards.

The industrial hygiene inspection teams feature collaboration between experienced physicians, physicists, chemists, engineers, industrial hygiene engineers and inspectors, and other experts. They render judgment on health hazards on the basis of test measurements made by themselves or by the factory concerned, and influence working conditions by way of recommendations, directives, memoranda and, if necessary, fines. In doing so, they consider such hazard and stress factors as noise, dust, chemicals, whole or partial body vibration, heat and cold, heavy labor, uncomfortable position and inadequate lighting not only as individual factors but also in their compounded effect.

#### A Wide Spectrum of Tasks

Annually about 125,000 workplace visits and 9,000 inspections in depth are accomplished; also, about 3,500 procedures in industrial hygiene project counseling take place. Industrial hygiene inspections concern themselves with all occupational health problems, starting with sick call through the patients' rehabilitation; they give guidance to factories and health care facilities in industrial hygiene and industrial medicine problems; they take a position on applications for exemptions and exceptions to regulations; they participate in the analysis of the causes of health hazards and remedial measures and they are active in advanced and continuing education. Some inspections also result in the solution of research projects.

The task for the next few years will continue to be the fight against occupational illness, using specific programs. The goal for the end of 1985 is to integrate all workers in hazardous occupations into the industrial medical fitness and monitoring examinations. The teams intend to become more active in smaller enterprises than they have been to date. One of their major objectives is to put new scientific insights gained in industrial medical monitoring and consultation into practice as quickly as possible.

The maintenance, promotion and reestablishment of health and performance capability of the workers is a task for the entire society of our workers' and farmers' state, and it will remain a primary goal of our health policies. The objective consists not only of preventing occupational diseases and other work-related health hazards, but also of promoting healthful aspects of work. The main avenue toward reaching that goal is the establishment of working conditions which are irreproachable from an industrial hygiene standpoint, bolstered further by the increasing capability of every individual worker of engaging in health-promoting practices.

9273

CSO: 2300/514

CONSUMERS COMPLAIN ABOUT LACK OF REPAIR, OTHER SERVICES

Better Service Before Elections

Hamburg DIE ZEIT in German 11 May 84 p 8

[Article by M. Menge (East Berlin)]

[Text] Everyone in the GDR knows that elections do not change anything. Whoever wants to accomplish something takes advantage of the time before the election. This time a lot of people were able to use it for going abroad. The prophesy that the GDR would be generous only until election time apparently is being confirmed: departure figures have been dropping since the beginning of this month.

Whoever wants to stay at home takes advantage of the customary readiness to solve problems at election time. "I went to the election meeting of the candidate of our small gardeners," recounts a worker from a district on the outskirts of Berlin. "A woman got up and said: 'Every time it rains there is such a big puddle in front of my door that I can hardly leave the house. If nothing is done about that, I will not vote.' And sure enough, some people came and put asphalt in the hole. Someone else said: 'In our street all gully covers are 5 centimeters too high; if you do something about that, I will vote for you.'"

Petitions too--the only way open to a GDR citizen to defend himself against power abuses by functionaries--have a better chance to accomplish something in the weeks preceding an election than they have normally. For example, a woman worker was decorated by Honecker on Woman's Day in the Palace of the Republic. The ceremony was over shortly before 10 pm. The worker and her husband, both of whom had come from the country in their finery, decided to conclude the day in a festive manner by dining in one of the restaurants of the Palasthotel (built for foreign-currency customers). The waitress brought them a menu but then kept them waiting for an hour, only to inform them that the kitchen unfortunately had closed in the meantime. The couple submitted a written petition. The waitress promptly was transferred to a second-rate restaurant.

Much more customary are the following petitions: Complaints about the chimney in a plant puffing filth into the air; a roof that leaks constantly; the unacceptable noise of machinery at the plant. Almost always someone from

the municipal administration will come, explain the difficulties and promise remedial action. "But even if there is no followup to the friendly visit, one has the pleasant feeling of being taken seriously as a citizen," a young man explained to me. "A little man like that really has no power. To say yes is something only the party can do. His sole power in fact is to say no."

No one in the GDR appeared to be amazed at an election turnout of 99.37 percent. An East Berlin woman friend commented: "If I don't go, it is almost as if I were an enemy of the constitution." One does not have to make any crosses, of course, one can cross out the name of the candidate for instance or invalidate the election slip. "I crossed out one," said a woman acquaintance, "and quite openly at that. He wanted to buy a single nut from me at the plant to check the quality. Can you imagine that?"

#### Service Establishments Not 'Citizen-Friendly'

Leipzig LEIPZIGER VOLKSZEITUNG in German 9 May 84 p 8

[Article by B. Zentner]

[Text] Household appliances are not exactly a rarity in our homes. And every now and then a record player or a gas appliance has a weak moment: the one does not play, and the other does not heat the water. Unless a repairman comes. Fortunately the Municipal Council has decreed that all customer services (that concerns radio and television, the household appliance service and the VEB Household Electrical Service) have to be offered every 4 hours, including in the evening, and on Saturdays. This means that the customer can choose from the following repair times: Until noon, noon to 4 pm, 4 pm to 8 pm, and 8 am to noon Saturdays. Minimum times for being open were also laid down for taking orders. It is also fortunate that almost in all cases the repairmen are friendly and are ready to help. But what happens before that? Our reader Heinz Gerber relates: "On 2 April I tried to reach the VEB Household Appliance Service/Service for Gas Appliances in Heinrichstrasse. The number was usually busy or no one answered the phone." Mr Gerber is not alone in his concern. We have received more than two dozen letters and telephone calls since 16 November, when our city reporter discussed this subject, in which similar reports were made by citizens of this city. The complaint at that time--"A long way to repair"--thus continues to exist.

After all, the citizen-friendly attitude of a customer service begins with taking the order. Whereas the VEB Household Appliance Service has to manage citizen-friendliness when it sets a date on taking the order from the citizen who shows up at its premises (as far as gas appliances are concerned, one can no longer go to the centrally located Universitaetsstrasse but has to go to Heinrichstrasse), several parties have to get together to insure the possibility of giving the order by telephone. In a discussion of the problem in early April, the information was given out that an application for additional telephone lines had been rejected by the Post Office. Considering the interest of the citizens and with close cooperation between the enterprise, the Municipal Council and the Post Office, should this

really be the last word? Replying to the question "Is it possible for the customer service for the repair of household appliances to become even more citizen-friendly?" the Municipal Council stated: "In accordance with the need, the household customer service must be developed further all the time." Unquestionably part of that is that the customer must be able to place his order.

8790

CSO: 2300/492

GERMAN DEMOCRATIC REPUBLIC

BRIEFS

DRESDEN NEEDS MORE RESTAURANTS--If, especially on a weekend, one would like to be pampered at a restaurant in Dresden, one often has to think again. Restaurants generally are overcrowded and cannot meet the rush of customers. Deputy Chief Mayor Horst Baersch, responsible for commerce and supply, has conceded that the demand is greater than present possibilities. The more than 500,000 people of Dresden and more than 5 million tourists annually have available about 400 restaurants with not quite 32,000 constantly available seats, with another 19,000 added in summer. The malaise is made worse by the fact that it has been necessary to close a number of restaurants because of building deficiencies or the dropping out of private restaurateurs. The deputy chief mayor therefore described it as "urgently necessary" to make increased efforts to maintain (reconstruct) older restaurants. The sum of M 15 million was already made available for that purpose from 1980 to 1983. In addition, licenses are to continue to be given to private restaurateurs. Moreover, new attractive restaurants are to be opened in the course of the repair of the center of the city. [Text] [Bonn IWE TAGESDIENST in German No 62, 26 Apr 84 p 37 8790]

CSO: 2300/492

# CHAMPION RUNNER REFUSES TO WORK

Budapest MAGYAR IFJUSAG in Hungarian 25 May 84 pp 59-60

[Summary] In the course of an interview with champion runner Andras Paroczai, the fact that Hungarian "amateur" sportsmen do not have to work if they are of a certain caliber has again been confirmed. Paroczai, until earlier this year a member of the Hungarian State Railroad (MAV) Sports Club in the provincial town of Szolnok, had won two silver and a bronze medal in European indoor competition. He quit his club this year because of differences about training schedules and the frequency of competition, according to his comments to the interviewer.

When the reporter asked him if he thought that he could have been a successful runner with less training, Paroczai responded:

"I am convinced that this is the case. My results back me up.

[Reporter] Yet, you still could not convince your club that you were right.

[Paroczai] I had enough when they told me that I would have to start going in to work at my job at the Vehicle Repair Shop.

[Reporter] As far as I know, you weren't enthusiastic about this idea.

[Paroczai] What a joke. No one has even asked a champion sportsman to do such a thing. We got into an argument about this with the leadership. I told them, I thought I was good enough to live for sports alone. Competitors with much less skill than me do not have to go to their places of work. They should not expect this of a Paroczai who at least has put something into the athletic trophy case.

[Reporter] What happened after this?

[Paroczai] (Laughs) Naturally, I left. I left the job at the Vehicle Repair Shop. It seems, they had trouble accepting my resignation, since in 15 days I got a notice that I had to pay the 90 thousand forint loan that I had taken out to build a home. Even though my wife still works for them, they wouldn't transfer the loan into her name. I paid the money and decided to break with the Szolonok MAV Sports Club once and for all. I am not staying at a place where



they take back the baby's toys [sic]. Recently, they withdrew my calorie fee [a special bonus] and they terminated my second job [also fictitious]. I won't even mention that they did not pay the 3,000 forint for my international classification.

The interview concludes with Paroczai telling the reporter about a competition at which he says that he was kept from winning by the concerted efforts of the coach and the runners. He describes his personal training schedule and then discloses that he has agreed to run for a club in Veszprem, a town in the western part of the country, beginning in September.

Both he and wife are going. She is going to play for a women's basketball team. They have already been promised a home. He intends to show that even at the age of 28, he can beat his younger competitors.

CSO: 2500/382

# HUNGARIAN STORE IN PRAGUE SERVES MINORITY OF SLOVAKIA

Budapest NEPSZABADSAG in Hungarian 30 May 84 p 4

[Text] In the center of Prague, not far from Wenceslaus Square, a long line forms every once in a while in front of a quite ordinary-looking store. At these times it happens more than once that Prague residents, who are passing by and have time, get in line first, and then ask what they are standing in line for. According to what they have seen, it is worthwhile to wait, since some kind of popular item has arrived in the "Hungarian Culture" store.

Tibor Standovar, store manager, said: "The year before last, and even at the beginning of last year, Rubik's cube was the thing to have." The cube of course had great publicity worldwide, so great expectations were built up in Prague too. It was also very surprising how fast the news of the arrival of shipments spread. In 1982 our turnover from the cubes alone was 8 million crowns, almost a third of our total turnover. This kind of product creates more business for the firm. Those that come in for it, often buy other things as well.

"In the front of the store there is a little display which is renewed now and then. The display acts as a 'temptation' for the buyer. This is where they display the more interesting merchandise, books, sheet music, records, folk art and handicrafts. This is a cultural mission, and simultaneously a profitable store." This is how the manager characterized the mission of the store.

"Our purpose is to spread the values of Hungarian culture and the works of Hungarian artists, in such a manner that all of our expenses are covered by our revenue, and we make a decent profit. The store has been in existence since 1950, but we initially marketed only books. We are providing the current selection since 1953, that is Hungarian books, foreign language books from Hungarian publishers, sheet music, records, magazines, newspapers, folk art and handicrafts, including clothing, decorative and furniture items."

Question: Is it easy to find the right balance between the need for revenue and cultural goals?

Answer: I can say that at least that it is not difficult. I must add immediately that this is due to our unique situation. Namely, the Hungarians of Slovakia show a great interest in our goods. It is worthwhile to glance at

the structure of our sales volume. About 14 million crowns consisted of "cultural" sales, that part of our inventory which is sold according to an international agreement. (By the same token, this agreement controls the offerings of the Budapest Czechoslovak Culture Store.) Books, magazines, newspapers, records, and sheet music belong in this category. Last year we sold more than 3 million crowns worth of Hungarian books, almost 3 million worth of press items, about 5 million worth of records and sheet music. Apart from the sheet music sales, 90 percent of the customers are Hungarians from Slovakia or Slovaks who speak Hungarian. Twice a year we notify our customers of our offerings for the following year. We use advertisements and notices sent to institutions. In a short amount of time we accumulate several thousand orders.

Question: At that time, there is a lot of work in the store?

Answer: Almost everybody is working on reading letters, wrapping and mailing our goods. Last year we had to ship a total of 46,000 packages, and we had to fill out three documents for each one. It is nerve-wracking and not very productive work, but no matter how hard we thought about it, we could not figure out a better method. You have to do it manually, there is no other way. Our direct sales last year were 6.3 million crowns. We had 5 million in C.O.D. sales by mail, and sold 2.7 million crowns worth of magazine and newspaper subscriptions. Our volume of orders in the public sector, that is libraries, schools, councils and other institutions, was 5.5 million crowns.

Question: The store therefore has a secure and significant circle of customers. But obviously, this is but one factor behind this business success.

Answer: Realistically, the quality and price of the goods is no less important. Our options change according to product group. We cannot sell the complete selection of domestic (Hungarian) books, since that exceeds our capabilities. We therefore try to select the ones most in demand, and the yearly increase in our book sales proves that we are not without success. However, we have a complete selection of records and sheet music. We have subscribers for 310 types of media products. In reference to other items the standard view is that we don't sell junk. In reference to price, if we exclude magazines and newspapers, we are undoubtedly more expensive than the Czechoslovak price level. The purchaser buys the merchandise anyway, even though it is more expensive, because it is different, unique, and Hungarian. Our concerns are first of all with procurement, because we often don't get the goods we want. Or they cancel back orders, citing various reasons. It is outright difficult to get the hit products from home, those products which drive our sales up. This problem is of course not unique to our store. Any store manager in Budapest can have such complaints. But our complaint is of greater consequence, since we are working abroad, and are trying to spread the good reputation of our country. So it would be justified to give priority to our orders.

CSO: 2500/383

## BRIEFS

SETTLEMENT OF FOREIGNERS MADE EASIER--Starting 1 June, the councils will discontinue the issuing of official certificates required for the settlement of foreigners. In the future, the notary public at the courts will approve the documentation concerning the immigration and housing arrangements of foreigners. Based on a directive concerning foreigners in Hungary, the sponsoring Hungarian citizen's declaration on housing, food and employment, which has to be made before an authority, has to be attached to the visa request submitted in preparation for settlement. The notarized document, which cannot be more than 6 months old, has to be sent in with that request. According to the earlier practice, the document covering housing and living arrangements for those wishing to settle in Hungary was produced by the local councils' administrative organ. That document was used to demonstrate that the foreigner had proper living arrangements. The new procedure will be simpler. The notarized documentation, covering employment, income and housing, provides better legal security for both the foreigner and his sponsor. [Text] [Budapest MAGYAR HIRLAP in Hungarian 1 Jun 84 p 9]

CSO: 2500/376

PRESS DEBATES RELATIONSHIP BETWEEN LAW, POLITICS

Law and Order Committee Proposals

Warsaw RZECZPOSPOLITA in Polish 28 Mar 84 pp 1, 2

[PAP report followed by editorial comment by: K. Ch.; material enclosed between slantlines printed in boldface]

[Text] (C). As reported to agency, press, radio and television representatives during a conference organized on 27 March at the Government Press Bureau, the Council of Ministers Committee for Affairs of Observance of Law, Public Order and Social Discipline has completed work on the preliminary drafts of three laws, namely: the updating of the law, the updating of the criminal proceedings code and the tightening of security and discipline at the Polish State Railways.

Let us call to mind that this undertaking had the following causes: the need for discipline in the areas that are affected by the given regulations, the increased protection of the interests of society and the state and also the stimulation of social initiatives in the area of problems found within the jurisdiction of the committee, appointed at the beginning of December 1983.

What are the general assumptions of the changes in the draft documents that the committee is now submitting for society's consultation?

The motive underlying the preparation of an updated/housing law/is primarily the need to protect residential property that is, unfortunately, exposed to too rapid deterioration by some users and the use of premises for ends that are out of line with their designation (houses of prostitution of the criminal element, hide-outs), accompanied by the physical destruction of these premises and of equipment serving tenants in general. The updated law also aims to discipline the services of the administration of apartment houses, including superintendents in particular, some of whom deceitfully obtain official apartments, and when they leave their official positions, are still able to remain on as tenants. The proposed penal regulations likewise aim at increasing respect for public property, that in the case of housing has now become one of the most highly valued civic virtues. The updated law stipulates that in

cases of the glaring violation of regulations binding upon tenants, it is possible that their housing orders will be withdrawn and that they will be moved to other locations outside the district of their former place of residence.

The following questions are expected to be answered: what is society's feeling about the scale of the phenomena that necessitate legal regulation?

Does public opinion accept the proposed solutions and what alternative solutions does it envisage?

What is the guiding motive behind the proposed changes /in the criminal proceedings code/? It is primarily the fact that during the period of the country's emergence from the socioeconomic crisis, some crimes such as break-ins, battery, cheating in the goods trade, overpricing, speculation and other forms of making profit illegally have become especially burdensome for citizens. Thus, in order to secure more fully the just interests of society in general and in order to render rulings more efficient, it is proposed that the possibilities be created for the speedy examination of criminal cases of some kinds of these crimes by subjecting them to a summary procedure. Some tightening of restrictions is also proposed with regard to the provisional arrest of perpetrators of such crimes. Thus, the proposed changes affect four fundamental questions: the expansion of the list of cases in which a summary criminal proceeding is permitted, the expansion of the circle of those authorized to pass sentence in the first instance (associate judges and legally prepared assessors), changes in appeal procedure and the raising of the upper limit of sentences handed down in summary procedures.

The following questions have been formulated to be asked of public opinion: what is the feeling of society regarding the threat of crime against the security and property of citizens? Do the proposed solutions meet expectations and what other proposals are there in this regard?

Finally let us go on to the regulations /that strengthen order at the PKP [Polish State Railways]/. We all are aware that the state of the security, order and discipline in PKP transport gives rise to serious reservations. Unfortunately, there are still frequent instances of train robberies, sometimes participated in by railway employees. There are also many cases of waste and destruction of public property; there are crimes committed by ruffians and violations of the law on combating speculation.

The disciplinary measures used thus far, including punitive measures, are not yielding the expected results. Thus, beyond organizational measures, it is essential that we create better legal instruments for increasing the safety of PKP passengers and for rendering more efficient the protection of the property transported by the PKP.

It is proposed that the penalties for theft of property from rail transport be stiffened considerably. This concerns both imprisonment and additional penalties. For example, it is proposed that especially serious theft be punished by an obligatory added penalty of confiscating the property in full. PKP and SOK [Railroad Security Service] officials are to be dealt with particularly

severely if they permit railroad crime. At the same time, in order to increase the protection and security of railway officials, it is proposed that those that permit active assault upon PKP and SOK officials be held more responsible; this responsibility is equated with the responsibility for attacking actively an MO [Citizens' Militia] official.

It is proposed that increased penal responsibility be introduced for fights and beatings on means of transport and in PKP facilities and that responsibility be increased for cheating and speculative activity conducted in these places. According to the proposals, all of these crimes are to be punished by an obligatorily used preventive measure--provisional arrest. The draft law also stipulates that the rights outlined in special regulations for PKP and SOK officials will also be lost, in the event that such officials are sentenced for crimes perpetrated against the interests of the PKP.

Thus, society's assessment of the dangers on the railways and its evaluation of whether the proposed legal solutions are well-aimed are important. What other proposals are these regarding regulations in this area?

It should be stressed that the committee is also considering the possibility of submitting other legal regulations for public consultation in the future, such as the law on combating parasitism.

/The preliminary proposals of the Council of Ministers Committee for Affairs of Observance of Law, Public Order and Social Discipline have the purpose of improving further the protection and security of honest citizens. They are directed in all their force against those that in a difficult social situation aim to disorganize and complicate our life by violating the principles of social coexistence and legal norms./

Let us recall that one of the tasks facing the committee is its cooperation with representative sociopolitical organizations and society.

While taking into consideration the numerous demands of particular milieus, the committee prepared the aforementioned draft laws on issues of vital interest to us all. /That is why it was decided to submit these drafts for social consultation./ This is one of the already tested forms of including broad circles of citizens in the establishment of the law. It is expected that these consultations will last until such time as the legislative process is concluded.

We request that opinions, proposals and suggestions be sent to the editors of national and local newspapers or to the following address: /Secretariat of the Council of Ministers Committee for Affairs of Observance of Law, Public Order and Social Discipline: 02-514 Warsaw, Pulawska St No 148/150./

The committee will report to public opinion on the results of this consultation that is of great importance to society, and the materials obtained will be submitted for the preparation of legislation.

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For the careful observer of social life, the proposals of the Council of Ministers Committee for Affairs of Observance of Law, Public Order and Social Discipline will come as no surprise. This is so first because they are an answer to the opinions of significant social milieus, in particular the workers, that demand radical settlement with those that violate the norms of social life. It is this trend, dedicated to the law, to law and order and to the struggle against crime, that wended its way clearly through the recently concluded deliberations of the PZPR National Conference of Delegates.

Secondly, it is so because the committee proposals are a natural expression of the work of the state, in this case work dictated by concern for the safety, in the broadest sense, of citizens and for the country's economic interest.

As is known, the security of citizens is threatened by the growth of everyday crime: break-ins, robbery by assault, highway robbery, theft and speculation. Society cannot help being disturbed by the fact that only every second burglar is apprehended. And only every 20th speculator and every 4th burglar are imprisoned. The squandering of public property, particularly waste and uneconomical management, are the causes of the burden that is also falling upon the shoulders of the entire society. Nor are citizens indifferent to one of the now major threats to order and the economic interests of the state--the preservation of order and the incidence of crime on the railways.

In such a situation, no measures taken to ensure calm and order for all are surprising. Moreover, the actions aimed at improving social discipline, including discipline among the various levels of the organs managing the economy and the important fields of national life, cannot and should not engender fear.

It should be emphasized clearly that none of the committee's proposals violates any sort of rights of honest people. They are all aimed at those that live off society as parasites, that rob it of the fruits of honest work, that endanger peaceful life in homes and public places.

It is also important that the proposals have the character of exclusively preliminary assumptions. In this situation, the committee's appeal for the broadest consultation of society possible is of tremendous importance. It means that the ultimate form of the new laws will be determined primarily by the citizens themselves.

(K. Ch.)

#### Crime Statistics Questioned

Warsaw TU I TERAZ in Polish No 12, 21 Mar 84 pp 3, 8

[Article by Tadeusz Kucharski: "Severity for All?"]

[Excerpts] What is the state of economic crime in Poland? What tendencies does it demonstrate--is it growing or declining with the development of our society? Over the



course of the entire 40 years of the PRL [People's Republic of Poland], not one scholarly treatment of this subject (in book form at least) has been produced, despite the fact that dozens of scholars in the past and now have held the titles of professor or docent of criminology.

Our country even has a specialized Institute for Research on Issues of Crime. What good is it, however, if its director stated at a recent meeting with journalists: "If someone asked me today whether crime is on the upswing or downswing, I could not answer this with a clear conscience."

However, since I am interested in the law, every few years I read in the papers about the serious danger to our state and society caused by economic crime and about the need to make penalties more severe. The authors of these statements never make reference to any sort of studies, but very often they allude to the feelings and demands of the working class.

#### The Will of the Workers?

Personally, I had to go "to the source" to be convinced of the validity of the argument that the working class is demanding stricter punitive regulations and stricter sentences. When, at the end of the 1960's, a society-wide discussion was held on the draft of a new penal code, members of the Association of Polish Lawyers [ZPP] held meetings with plant workforces, presented them with the assumptions of the draft law and recorded their remarks. I accompanied a judge friend of mine to these meetings. Together we visited four groups of workers. During the discussion that occurred at each meeting, the charge was made that the courts are handing out too soft sentences for one crime or another (they were usually criminal offenses). The judge asked what was the basis for the discussant's belief. Each time the answer was the same: "I read about it in the paper."

This is the only answer a worker can give, for what other source can he have for his knowledge about court rulings? If he is not a councilor, he has no contact with the courts. If he is a councilor and himself endorses the sentences, he will not be willing to evaluate them as too soft. Here I am ignoring the generally known fact that during the time of deliberations of the sentencing body over the sentences, the councilors, including workers, are that element that works to ameliorate the sentence and not to make it more severe.

One cannot treat uncritically the knowledge of the working class about court judgments if, because of the lack of any sort of substantive works on this topic, even the representatives of the highest authorities lack such knowledge. Recently, in TU I TERAZ No 6, I published an interview with Politburo member Tadeusz Czechowicz. He was excellently informed on all socioeconomic problems of our country. However, when I brought up the issue of combating crime, the conversation was brief: He said: "Some sentences perturb me. For example, sentences for highway robbery, for causing death, for rape are sometimes too soft."

"How do you learn about such sentences?"

"I read about them in the papers."

"Comrade Secretary, many court reporters have the habit of describing the crime on the basis of the bill of indictment itself and they add to this description information on the sentence, which they give without relating the extenuating circumstances or without giving any changes established in facts by the court. Hence the press reports that have such headlines as 'Bestial Murderer Is Sentenced to 8 Years in Prison' that generate bad blood among society."

"It is possible that this is the practice, but workers' groups do not blame the courts, their councilor colleagues, or journalists; they blame me and the party."

Thus, it is neither in the interest of the party nor in the interest of society for the press to prod legislators and the courts to stiffen punitive measures, to penalize social life. On the other hand, there is an urgent need to raise the press services of legislative bodies and organs that mete out justice to a considerably higher level. We must exit out of this vicious circle in which the press hands out excessive liberalism, workers read this and repeat it at meetings with the representatives of the authorities, the press in turn repeats their critical statements as an expression of the "feelings of the working class," the workers read this and so on and so forth.

Is Imprisonment the Best Thing?

Recently in the press have been appearing restatements of the demand to stiffen punishment for economic crimes, and especially for speculation. They emanate not only from journalists, but--what's worse--from representatives of the administration as well.

One of the members of the Central Commission for Battling Speculation gave an interview to a PAP representative on the subject of the battle against speculation. He is neither a criminologist nor a representative of one of the organs for prosecuting and administering justice. Nonetheless, he felt he could make an assessment of the court rulings in speculation cases. His evaluation was negative: the penalties with regard to speculators are too soft; the percentage of sentences of the unconditional punishment of imprisonment is too low; the percentage of sentences conditionally dropping the case is too high.

Several days later, the author of this statement met with several dozen reporters and laid out his position in fuller detail.

Last year, 10,860 crimes perpetrated against consumers were uncovered (this number must be reduced somewhat by a significantly large percentage of those that later were found to be not guilty). Just what percentage out of this number were speculators and what percentage cheated on weights or perpetrated other swindles is not known. Nor is it known what percentage is represented by those engaging in wholesale speculation (illegally trading entire carloads of goods), and what percentage is represented by small-scale speculators (the crimes of bazaar grandmas). The aforementioned 10,000 or so crimes were detected by a group of 2,400 people (let us ignore the fact that in another meeting with reporters, a considerably larger number of persons involved in

the prosecution of speculation was given). Despite this, solely on the basis of the figures given, the view is formulated that the "crime of speculation is a tremendous threat in the economic field," which is supposed to have an impact upon the severity of punitive measures.

We do not know what the percentage is of minor acts amid the total mass of detected crimes against consumers; despite this, the opinion is stated that punitive measures are too soft. In the opinion of a guest of the reporters, the percentage of those sentenced to unconditional imprisonment is too low, and the percentage of conditionally dropped cases is too high (it is 4.8 percent). It appears that, with at least as much success, one could defend the view that this is a very small percentage, especially if one considers that up to 45.5 percent of the perpetrators of these crimes are women, and 17 percent are pensioners and annuitants. Thus, should we deplore the fact that last year, about 480 of those indicted had their cases conditionally dropped by the courts and were not imprisoned? Are we inclined to feel this way by the numbers that show that among those that were not imprisoned there were many women (including the mothers of small children) and elderly people, and the fact that we may presume that they were charged for the pettiest of crimes?

Thus, the familiar demand made in the preamble to the March 1953 decree is resurging of late, despite the fact that we know today that shortterm imprisonment is ineffective as a method of resocialization, and is, moreover, the most costly method both in the social sense and in the financial sense for the state. And despite the fact that studies show that the conditional dropping of the case is a very effective teaching method, since less than 2 percent of those against whom this method is used return to crime.

#### Divergent Positions

The previously mentioned participant in the meeting with journalists, a nice, good-natured man, comforted his listeners (as he did his readers before them) by saying that "we have a forecast of changes for the better" in the use of punitive measures, i.e., a forecast that they will be stiffened. When questioned by one of the journalists regarding the statistical sources for the critical evaluation of current court rulings, he stated that the source was primarily the report of the Ministry of Justice containing the results of studies based on quite extensive figures. The discussant protested that the minister of justice recently expressed himself in the press in a totally different spirit. The answer was simple: the minister is new and the report was issued under the previous minister.

The next day, the president of the Voivodship Court met with this same group of reporters. Until recently, this man was the director of the Department of Court Supervision at the Ministry of Justice, i.e., that unit that is engaged in studying court rulings. He reported authoritatively that the Ministry of Justice did not do studies of court rulings based on the law of extensive data, since such a practice does not exist, nor does extensive data exist with regard to the crime of speculation. The president read in the press an assessment of the rulings that had been presented by our guest of the previous day, but he does not share his view.

In my opinion, the incident that I have described is a good illustration of the uncertainty of our knowledge about economic crime. This uncertainty emanates from the many years of neglect in research into this field of social life. Our knowledge about economic crime continues to be intuitive rather than scientific. The proposed methods for battling this crime are not based on any scientific premises, nor do they take into sufficient account the many years of practical experiences of our state in this field.

It seems that even our greatest achievement in penal policy is disappearing into the shadow of forgetfulness: the principle of the stratification of crimes and their perpetrators. It is a principle that announces that the perpetrators of major crimes ought to be punished with the entire severity of the law, while those committing minor acts and chance criminals should be dealt with through teaching, rather than punitive measures, especially imprisonment.

This directive, initially known as the polarization of crimes, has a specific political status. It was not formulated either by scholars or by the codification commission, but by the Secretariat of the PZPR Central Committee. Its rightness has never been questioned by anyone, although certain stipulations could have been added during the 1970's to its practical application, especially by prosecuting organs.

As is known, this directive was born out of the negative experiences of the 1950's in battling crime, even though it could have been gotten for free from Montesquieu, who knew 200 years ago that: "Fear is an incentive that should not be abused; never should a severe law be issued where a more moderate one suffices." Will we have to arrive at the forgotten principle of the stratification of crimes and their perpetrators once again through the trial and error method?

#### No Easy Solutions

Warsaw TU I TERAZ in Polish No 17, 25 Apr 84 p 5

[Article by Wojciech Zreda: "Let Us Begin Work 'From the Foundations'"]

[Text] One of the worst traits of the many social measures undertaken in Poland after World War II is the campaigning. Instead of honest work and the proper performance of assigned duties, from time to time a campaign is organized that almost never can yield permanent results that have a real impact on society. Essentially, it can change nothing, if for no other reason than because it is so shortlived. Actually, it brings a loss to society, since it involves the essential apparatus in the campaign. While the material losses here are not the most important issue, what is worse is the confusion that is created in the consciousness of many of us. T. Kucharski's article (TU I TERAZ No 12) supplied examples of this.

Remember how many times we "searched" for something, "called together" something, "struggled over" something, and how many kinds of witches we already have captured (see sowers of discord, mischief makers and speculators). Now we are once again battling economic crime in all its forms. Certainly, the state is doing this by prosecuting and punishing those that have embarked upon the path of lawlessness. In my opinion, society is not doing it. True, the mass media publishes statements that are supposed to be an articulation of society's indignation, but they are not authoritative regarding any solutions executed with full authority.

Just as the data and studies on the level and types of economic crime are lacking (at least those that are generally available are lacking), one also senses a shortage of knowledge about society's perceptions of this phenomenon. I do not mean that it should be possible to define in one statement the way Poles feel, since their feelings are made up of a number of emotions such as envy, pity, fear and the like. Obviously, I have in mind a sort of collective feeling. It is likewise difficult to define the real attitude of society to the forms and effects of the prosecution of the perpetrators of economic crimes.

Perhaps individuals have not asked themselves about the consequence of stamping those that have clashed with the law through speculation, willful embezzlement, causing damage at the workplace and the like. Certainly, we wish to have law-abiding, honest citizens that do not take someone else's property and do not take advantage of the opportunity to making money on the side. But we will not achieve anything here by scaring people with severe punishment. Long ago the theoreticians and practitioners of the law indicated the impossibility of demonstrating a simple relationship between the severity of penal measures and so-called general prevention, i.e., popularly speaking, scare tactics. It is even more impossible to formulate the general principle that the more severe the punishment, the fewer the future perpetrators. Thus, let us not speak of severity, but of /justice/ [in capitals].

Justice in the judicial sense need not converge with the feelings of society. An impartial judge, examining a case of the administration of a penalty, takes into consideration the various elements that go into the make-up of the crime, particularly the subjective elements related to the criminal's personality and the objective elements related to the deed. Of course he must also take into account the hypothetical social impact of the penalty. In the justifications for many criminal sentences we frequently find--as a basic for the increase in the severity of repressive measures--epidemics of a certain type of crime. It is this, combined with real or imagined social pressure, that inclines judges to hand down "copy" penalties. However, a sentence must be just above all, since only such a sentence really without reason [as published] has an impact on society.

Penal law is not merely prohibitions; it is likewise, and perhaps especially, the charter of civic freedoms (these are not prohibitions--they are permissions). We must be well aware of this truth.

The public issuance of the contents of sentences is compromising in its present form. Frequently it boils down to a description of the penalty itself. Thus,

it is no wonder that some citizens criticize the work of the judicature. The proper form to use in publishing information of this type is a discussion of the course of the criminal proceeding and of certain elements of the justification of the sentence. But for God's sake, let this be done by people that know something about the law. Let us not stir up emotions or sow the winds through misinformation.

Since I do not believe in the effectiveness of scare tactics, I propose an end to the campaign and a beginning to work toward responsibility. I mean here the responsibility of man for his actions, for the proper execution of his duties, for the workers under him and for the property that he oversees and the property that is in his trust. In my opinion, this is the proper method for battling economic crime. Most of these crimes begin at the enterprise, the plant, at the lowest level of economic life. It is here as well that a decisive battle should be fought to develop the proper attitudes.

There are also legal and organizational instruments that enable work to be conducted on responsibility. Let us take the labor code as an example. It stipulates two types of material employee responsibility for property in their trust and for damage done to the plant. While embezzlement is prosecuted quite rigorously, billions of zlotys' worth of damages done to the economy through the failure to execute or the improper execution of employee duties are not responded to properly by legislators.

Article 114 of the labor code frequently is an empty regulation. If it is to be used properly, certain organizational measures must be taken. The detailed areas of the duties of particular employees must be determined so that it is always possible to establish which of them have not been executed. The proper supervision of management must be exercised and the proper documentation must be made that makes it possible to demonstrate the employee's guilt and the cause-effect connection between the failure to perform or the improper performance of duties, and the resultant damage. This responsibility extends both to the person directly involved and the supervisor. Employees at all stations must feel that they are prevented from failing to perform their tasks or from transgressing the laws not only by the service responsibility (reprimands, exhortations), but also by real material responsibility.

Thus, let us begin with the strict discharging of our own obligations and those of others. This seems not to be a great deal, but it is really a tremendous job. I think that the enterprise law that is continually being enacted, particularly the regulations on financial management, will force economic units to demand the appropriate damages from those guilty of neglect. Of course, this must apply to employees at all levels of management. Perhaps this is the cure for one of the many manifestations of our society's illness.

We must realize, however, that economic crimes will not disappear--human beings are human beings. We can restrict their scope, however. While the crisis does not foster many activities, we should not translate this to mean inactivity. The restructuring of the consciousness is not executed through the fear of punishment and the bandying of slogans. We must begin with unflagging work "from the foundations"--this is the only recipe of the day.



## Lack of Criminological Knowledge

Warsaw TU I TERAZ in Polish No 17, 25 Apr 84 p 5

[Article by Michal Bereznicki\*: "Very Important Questions"; material enclosed between slantlines printed in boldface]

[Excerpts] In the article "Severity for All?" (TU I TERAZ, No 12), T. Kucharski, within the framework of definite historical retrospection, cites a number of very important, already partly forgotten facts supporting the notion that the call for strict penalties for the perpetrators of economic crimes was a kind of reflection of the helplessness of various public officials in the struggle against the manifestations of social pathology in the sphere of economic life.

They thought that strict penal measures were an effective method. At any rate, it was not the ill will of public officials, but specific phenomena of a socioeconomic, sociopolitical, psychological and intellectual nature that lay at the foundations of the practice of excessive, often outright draconian measures taken against otherwise socially dangerous [as published] economic criminals.

However, I find the author's idea that this practice did not have the extensive support of society to be controversial. I believe that a less extreme idea is in order here, namely: society's support for this type of practice of the organs of the prosecution and administration of justice was basically ambivalent and rather shortlived.

T. Kucharski states accurately that at the present time, one can and must speak of the phenomenon of recidivist exhortations to the "draconian punishment" of economic criminals. At the same time, his analysis in this regard is quite interesting, if controversial in places.

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T. Kucharski is correct when he says that /proposals that call for very severe punishments for economic criminals as a rule have no broader intellectual basis./ While this is a natural phenomenon, highly emotionalized values that sometimes evolve in the direction of a kind of social demagoguery usually do not go hand in hand with intellectual values.

Add to this the fact that press treatments of individual penal cases rather rarely include critical touches and demagogic accents where the judge administration of a penalty against the concrete perpetrators of economic crimes is concerned. The psychological mechanism of this symptomatic phenomenon is basically simple and banal.

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Thus, the criminal proceeding is rich in criminological issues (the sources and causes of specific criminal behavior, the personality of the criminal), criminalistic issues (the manner in which the crime is committed and the like) and penal-legal issues (incentives and motives for a criminal action, the question of guilt and the legal premises for the court's meting out of a penalty). This multiplane view of the individual criminal action is a condition for the court's issuance of a sentencing of the accused based on realities, and thereby a just and correct sentence.

Thus, an analysis of individual criminal cases must be accompanied by reflection upon the complexity of the substance that is the subject of the case. Such a reflection disinclines one toward hasty rigorism. Thus, the quality and level of press reports based on individual cases are in this regard an argument not to be refuted.

We are confronted by a similar phenomenon in the case of the various types of environmental discussions surrounding economic crime.

/With regard to specific criminal cases, discussants' statements are weighed and moderate, and only here and there cautious and too careful. Meanwhile, in discussions of economic crime "in general," one notes the reverse. The statements of discussants are dominated by opinions that are as radical as they are simplistic. At the same time, they are accompanied by "principled" criticism of the courts for their liberalism in the area of punishing economic criminals./

Therefore, it seems to me that as honest and thorough as possible a knowledge of the broadly conceived etiology of economic crime should be a condition of rational actions and social attitudes in this regard. At the same time, let us note that the current state of criminological knowledge, while far from perfect, nonetheless creates a real possibility for the most rapid possible and most basic possible rationalization of social convictions and opinions regarding economic crime. The problem lies "only" in the forms and methods of dissemination of this knowledge in the various communities and social circles, and among the practitioners of the organs of control, prosecution and the administration of justice. /The criminological knowledge of the officials of the aforementioned organs in this field is often almost nil! /

Nevertheless, the possible notion that the current shape of court rulings with regard to economic criminals is nearly perfect would be obviously in error. Fundamentally, it leaves a great deal to be desired, particularly if one views it from the perspective of contemporary criminology and penology. To simplify the problem somewhat, it may be said that its essence lies in the demand for the indispensable adding to the value of judicial sentencing practice those elements of the cases in question that we have come to define as subjective and personal.

This refers not only to economic crimes, but to crime in general. For it is not a question of whether a given sentence is strict or light, but of its being just in every regard. At the same time, one cannot exclude the idea that the optimal implementation of this demand may have the effect of leading



to some, and even considerable increases in the severity of punitive measures taken against the perpetrators of the various criminal actions.

Certain phenomena of a psychological and sociological nature also weigh upon the current shape of judicial practice. I am speaking here of the ambivalent attitude of many judges to the legal directive that orders them to consider in every individual criminal case the general preventive and prophylactic purposes of the sentence as well. /This emanates primarily from the lack of any sort of empirical studies on the practical effectiveness of court judgments on the plane of social crime prevention/ (at the same time, it is difficult to understand why the undertaking of such studies has not been considered at the Institute for Judicial Law Research, for example).

The following is a characteristic statement in this area made by one of the judges I spoke to during my aforementioned research: "It seems to me that until we do such studies, we will not succeed in bringing judges' meting out of penalties to the proper level. What sort of studies do I envisage? Above all, we ought to study the kind and nature of reactions evoked by a judicial sentence upon the various social communities, as well as the impact of this sentence upon the molding of attitudes above all among the demoralized. How are we to do this? I do not know! I am merely indicating the problem; the rest is up to the specialists."

In this same context, we likewise must analyze the attitude of the very many witnesses in the criminal proceeding, consisting of their glossing over, in a sort of "autopersuasion," of a number of facts and circumstances that could affect the judge's handing down of a penalty against the accused that could be more severe.

/I think that the idea is justified that judicial practice is too liberal with regard to certain categories of crime./ I have in mind here above all court rulings against bribe-taking and paid influence-peddling. Let us merely consider that the conviction is fairly universal that the repercussions of such crimes in our country are serious or even terrifying. While the accuracy of such opinions and judgments may be basically problematical, there is no question but what the so-called "dark number" of such crimes is considerable, and even distressing. Meanwhile, this of necessity must have a bearing upon the assessment of each individual crime in its psychosocial dimensions.

Real and potential criminals must be aware that under such circumstances, their guilt will be somewhat overestimated, due to the weighty directives of social education in such cases in the area of the generally preventive impact of the judge's administration of a penalty against the perpetrators of criminal acts that threaten society.

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In concluding my considerations, I should like to emphasize with special force that the interesting, properly documented and substantive article written by T. Kucharski can and ought to initiate a broad and thorough discussion on the present and future shape of judicial sentencing practice both with regard to

economic criminals and with reference to violators of the law in general.

In my opinion, this discussion should focus upon an attempt to answer the following questions: /In the case of economic criminals that do not pose a special threat to society, should we not markedly limit the practice of handing down sentences of imprisonment under the same terms as those imprisoned for crimes against property? What are the real expectations and demands of society in this regard? Are these demands acceptable based on the criminal sciences and on the rational battling of crime, and to what extent are they acceptable? Should it or should it not be the case that when the basis for an individual economic crime lies in an insufficiency of material-essential needs on the part of the criminal (pensioners, annuitants), the criminal trial against him should be dropped conditionally/ (of course, with the simultaneous application to him of the appropriate methods of social influence)? Obviously, the proposed discussion should take into account the familiar resolutions and guidelines of party and state officials in this area, and the numerous statements made on this subject at the National Conference of PZPR Delegates.

One final observation. There cannot be, and should not be, any doubt regarding the fact that the structural stratification of economic crime represents a serious threat to the state and society. The "only" issue is /for punitive measures to be treated as a fortifying, complementary method/ in the complex of actions and measures aimed at the gradual neutralization (curbing) of its malefactors. From this viewpoint, the creation of the Council of Ministers Committee for Affairs of Observance of Law, Public Order and Social Discipline inclines us to a certain optimism, since it attests to the fact that the battle against economic crime and with other phenomena of social pathology essentially will have a comprehensive and multiplane character.

#### Law as Obstacle to Politician

Warsaw PRAWO I ZYCIE in Polish No 19, 12 May 84 pp 3, 4, 5

[Article by Zdzislaw Czeszejko-Sochacki: "Political Education of the Authorities and Society"; material enclosed between slantlines printed in boldface]

[Excerpts] Though issues of everyday life play a fundamental role in the life of every human being, the need for other values is being revealed with ever greater frequency and force. Human existence is composed of both material and spiritual needs, and an attempt to separate the two cannot but be artificial.

Likewise, social phenomena are not homogeneous in character. While speculation arises out of one's economic situation, out of a basic disparity between supply and unsatisfied demand, it is manifested in the attitudes of those that are disposed towards egoistically taking advantage of this situation. It represents a violation of the principles of life in the collective, of solidarity and social justice, and thus of the basic values system. Such an attitude that strikes out at the interests of other individuals and the entire group is regarded negatively by the group. Its reactions, however, are purely verbal.

The lack of precise data on speculation was noted at one of our meetings. One speaker stated that within his small gmina [parish], he personally knew of at least five speculators that could get you anything--for a price. The speaker did not explain, however, how it happens that these local speculators live in health, plenty and unruffled calm. The subtext was only that the authorities--meaning the central authorities--have not acted to get rid of these speculators.

In another speech, the issue of speculators was treated on a plane identical to that of local officials of the Court of Justice that earn a great deal, but at the cost of tremendous effort and professional savvy. /What is irritating is the picture of the man that isolates himself from others by his affluence--others that somehow along the way have lost the means of attaining this affluence./

#### More Politics Than Knowledge

To travestize a statement going the rounds, it can be said that Poland has the most politicians, economists and lawyers, in inverse proportion to the knowledge in these fields.

As a matter of fact, politics is an enigma in the social consciousness. Political activity, political leadership, the politician--these are certainly terms whose social perception would be extremely difficult to define. Democracy as a form of government is built upon a broad social base, on broad participation, but the effectiveness of this participation depends both upon the scope of information and upon the skill of taking the broad view of phenomena and people.

Plato defined politics succinctly as the art of governing people. Modern definitions are somewhat more elaborate, but in essence they do not depart from the original definition. For example, J. Kowalski defines politics as knowledge of the social mechanism of the struggle to attain the state's direction of society and of the way of using it to implement specific social ends ("Wstep do prawoznawstwa" [Introduction to Jurisprudence], PIW [State Publishing Institute], Warsaw 1979). In any case, the government of people in the state is the exercise of authority that enables the implementation of specific goals. The exercise of this authority is knowledge of social psychology, sociotechnology and of the scientific principles of organization and management--in a word, knowledge of the apparatus (the tools) of government and the skill to make use of them. Above all, those that use this apparatus directly must be familiar with it; moreover, it must include social knowledge, for that is a vital element of political culture, that is in turn a condition for real participation in government.

One cannot be particularly be particularly enthusiastic about the current methods of disseminating political culture. It is nice that TRYBUNA LUDU carries articles that explain elementary concepts in the field of politics; it is nice that this subject is touched upon incidentally in some articles. However, it is difficult to perceive any sort of ordering and organizing concept in all this, any sort of programs disseminating political culture.

Two excellent such examples of the American variety are the films "Washington Behind Closed Doors" and the intriguing "Attempt on the President." We do not have such films, which may lead to the conclusion that the exercise of authority causes problems only in the United States. Perhaps this is an embarrassing subject. True, we have our own, specifically Poland-centered view of phenomena. Of late we have yet another characteristic: the acceptance of what is from the West as true. In some sense, however, these things are the consequence of shortcomings in the political culture area. Often fearing that what we offer will be received in the wrong way, we do not portray our real heritage.

It is hard to imagine that the MONITOR RZADOWY [Government Monitor] will be a permanent guest at government meetings, for this organ simply cannot work effectively unless it is able to present more comprehensively the methods used to arrive at a given decision. This path is thorny and full of controversy in which the members of the government hold various positions and express various opinions.

The miserable television coverage of Sejm commission meetings does not portray the vastness, the complexity and the controversial nature of the issues discussed. By their very nature, plenary meetings cannot take on such a load.

What do we know about the dilemmas and problems of people's councils, about the decisions made there and about their social determinants?

The exercise of authority is not always based on the means of state constraint; frequently it extends to nonpunitive influence, especially in the socialist state. Such influence is possible when society is aware of specific determining factors, sees the balance of needs and possibilities and is aware of the inviolability of the bounds of these possibilities. But the state is the political organization of society, with specific rights and duties. The apparatus of authority has the right to expect its work, verified by and clarified to society, to be supported by social activism and discipline. For example, how can we meet society's needs when the production level continues to be low? Perhaps the fact that the authorities keep reiterating that only as much as is produced can be distributed makes it sound like a slogan, but it is also the bitter truth about the inviolability of the bounds of the state's potential. The very idea of living on credit, i.e., at the expense of others, is absurd, and the absurdity is exacerbated by the fact that for some time now, no one has been anxious to give us credit.

#### Feedback Between the State and the Law

The state is not a federation of units, but a politically integrated system in which the law plays a vital role. While the state, through the power of its collective will, creates the law and endows it with state constraints, the law in turn defines the principles and forms of functioning of the state. The state governing by law is founded upon legally defined premises, but it also defines the forms and principles of operation of the law itself. Thus, feedback exists between the state and the law. Politics, meanwhile, is to insure the implementation of the state's goals by guiding people through the forms stipulated by law, according to its principles.

This leadership of the people is expressed in the integration of their actions towards specific social goals to meet the needs of the group. The politician aims toward achieving these goals according to his current, updated knowledge about the social processes and according to the view he has developed on this basis with regard to the way these goals are implemented. That is why the politician must be both dynamic enough and flexible; he must react to the changing situations and moods.

The law is more stable, in some sense, even conservative. In general, it arises as a result of the long-range observations of reality, for the purpose of safeguarding fundamental interests and values.

/To this end, the law creates certain barriers that are not always desirable for the politician that reacts more spontaneously. Where politics and the law meet, conflicts sometimes will occur, just as they occur in life when the more stable element, balking at change, comes into contact with the adaptations that must be made to changing situations and conditions./

Politics is marked by diverse interests; fundamentally, however, it encompasses all fields of social life. The law, on the other hand, intervenes only in specific situations and in a given sphere. It is based on the convention that what is not prohibited is allowed. It cannot be either omnipresent or importunate; there are fields that are not subject to the control of the law that have no need for legal formalization, since other methods may be effective enough. In the designation of the role of the law in the functioning of the state, the proper proportions and measure must be preserved, the latter especially emanating from the efficiency of the law to act on the life of the group.

#### Differences in Assessing Methods

Every crisis must have its causes and manifestations, but like all human activity, every crisis has a causal connection to the errors and culpability of concrete individuals. Hence the charges of arbitrariness and voluntarism and in their wake the demands for the creation of certain mechanisms and legal guarantees. Hence also the impetus toward legislation and, often, an inordinate faith in the effectiveness of the law. This in turn leads to threats against the law or lawyers and to a disinclination towards legal control. Since in Poland neither the development of the state nor the creation of the legal system has proceeded in a straight line, has not undergone a peaceful evolution, the extremes also have been more extreme.

Consequently, the more rational and long-term development of the coexistence of the law and politics towards a strong and just state becomes desirable, and thereby the creation of more favorable circumstances for the propagation and deep implantation of both political and legal culture engendering moral systems, systems of customs, official systems and the principles of coexistence. We should not exaggerate by an excess of legal regulations; at the same time, we should enforce the law in full and without any subterfuge.

Our emergence from the crisis creates many problems related to the putting into practice of the economic reform, an idea that under present conditions seems to offer the greatest opportunities for increasing productivity and stabilizing the market, in this way meeting essential needs. Getting out of the crisis, however, also means social problems, particularly the development of a model and of services of an equitable life and the molding of the state consciousness with a system of values in which the general welfare is foremost. It is also the awareness of possibilities. Mickiewicz's idea of one's tailoring his exertions to his goals stirs the imagination and spurs human ingenuity, but pragmatism also demands that one tailor his goals to his strengths. For example, our social policy more than once has failed to take into proper account the financial possibilities of the state and has made a number of financial obligations that it is finding more and more difficult to meet.

The model of an equitable life does not tolerate social pathologies--parasitism, corruption and speculation, and strong social pressures are created to stop these kinds of phenomena effectively. These pressures and expectations of society in politics, and thus in the process of leading people, play a vital role, since they also bring accusations against the authorities for failing to guard basic social values. The politician, assessing these social processes, is inclined to reach for temporary solutions for improving this leadership; the lawyer, on the other hand, opposes such emergency measures, fearing that even if the self-consciousness recovers temporarily, this does not bring a long-term recovery. /The politician and the lawyer have no quarrel with regard to their assessments of the damage done by specific phenomena and of the need to resolve them; the differences begin with their assessments of methods and the means of countering harmful phenomena./

At the same time, one notes that making society aware of phenomena and of the methods for countering them with real effectiveness is as necessary as explaining why the economic reform is not a panacea for everything all at once, as well as on what its effectiveness depends.

Some "Ifs"

And then, can any sort of social undertakings, including those in the area of battling social pathology, be directed only toward the governing apparatus, or must this governing power and the given problems be seated amid the social reality, in society's division of labor and system of responsibility? True, one can attain a good sense of self by shifting responsibility to others, but this not only will not exonerate one's conscience but will not change reality above all, the reality in which each of us, as an element of the system, is jointly responsible for something, and in some area.

The effectiveness of the steering of social processes depends not only upon a good program and implementational apparatus, but also upon society's cooperation--on the social base that absorbs difficulties that arise. Such cooperation is optimal communication among society, less emotion and more rationalism. For example, if the model of the territorial self-government inscribed in the law on the system of people's councils and the territorial self-government in 1983 had passed only 30 percent of its practical exam, then the apparatus of



state authority, relieved of some of its burden, would be more effective in solving other problems, sometimes those with a high specific gravity.

If society's conciliatory commissions that cannot find a proper patron following the dissolution of the National Unity Front, and this in spite of an entry in the aforementioned law regarding the system of people's councils, they could resolve conflicts adequately through social mediation and there would be fewer court proceedings, and life would be more pleasant.

If state control did everything it was supposed to in full, and social control aided the state as it should, then the field for excesses would be smaller and the principles of social justice could function with greater regularity.

If, without resorting to any sort of control, the effect of the community was stronger and less tolerant of racketeering and roguery, then many stresses and material problems would be avoided.

These "ifs," whose solution requires no financial outlays or foreign credits, for it lies quite simply in the hands of society, in the activism and receptiveness of the group, can be added to considerably. Perhaps the speed with which we exit not only from the economic crisis, but also from the political and social crisis depends upon them. It is easier to correct the economy than the teaching process, and social or moral "disabilities"--the failure to react to evil and harm, the lack of the skill to view things more broadly and more deeply--are considerably more difficult to rectify.

The apparatus of government arises out of the given society and is its component part; regardless of whether we like it or not, it is representative of this society. If it is to perform its tasks and work in society's interests and on its behalf, it must make use of a broad social base. This base in turn must be upgraded in value in the area of political culture, for example, by the demonstration of the mechanisms and the motives of the actions of authorities.

The propagation of political culture is a complex and important process of society's education, the education of the apparatus of authority and of society--the education of all.

#### Immediate Action Discouraged

Warsaw PRAWO I ZYCIE in Polish No 18, 5 May 84 pp 3, 4

[Article by Zdzislaw Czeszejko-Sochacki: "On Crimes and Punishments"]

[Text] No matter what we may say about it, there is no doubting what they say about the disturbing increase in crime. While statistics demonstrate the increase, it is, above all, something that is felt. In other words, there is a serious rise in the threat to law and order and secure community life.

It is no wonder then, that society reacts strongly to the increase in the criminal threat, raising charges against the official apparatus, and particularly the apparatus of the prosecution and administration of justice that the work of the authorities in this field has not been effective enough to date. This is true, although the moods of society are not always measured and read objectively enough and although the portrait of crime and the conclusions emanating therefrom are not always represented in a competent way.

Society's feeling threatened by the increase in crime and its expectations that this phenomenon will be countered effectively are healthy and natural social reactions. However, these reactions lead neither to a diagnosis nor especially to therapy. It is a picture that is very close to the one in which the patient, suffering from a disease, describes his symptoms to the physician and then expects the physician to be effective in helping him. Often the physician is not in a position to establish the kind of illness and undertake the proper therapy on the basis of the patient's description. Frequently, the progress of the disease reveals its type and character, although for the patient it is not at all comforting to hear: let us wait a few days more and we will see exactly what the situation is.

However, in order to embark upon the optimum, effective counteraction to the spread of social pathology, and crime in particular, we need genuine, competent research of the sources and causes (etiology) of crime. Based on this, we can set up a program for eliminating it. Such a proposal has the virtue that it enables treating causes, and therefore eliminating the sources of crime, yielding results that are more profound and long lasting. However, it has the drawback that it operates with a considerable delay, which may give the impression of a lack of preparedness and willingness to embark upon effective action. Such a situation imposes the need for immediate action as well, just as in the example with the patient where symptomatic therapy is not excluded.

Thus, the observation of social reality brings to light the need for also conducting studies to obtain a comprehensive and reliable picture of crime and a program of long-term action corresponding to this picture, as well as a program of immediate action for reducing the degree of danger and for halting the development of crime. These immediate actions possibly, and sometimes indispensably, will honor certain conditions:

- as in medicine, *primum non nocere*, not to harm above all,
- they will be of a rational nature, since arousing society's emotions any further brings with it farreaching danger to the state of society and to the attitude to the authorities, and, finally,
- at any given moment, they must make use of methods that are adapted to the situation, while taking into consideration the first rule--not to do harm.

#### The Diagnostic Situation Is Not the Best

Perhaps this is so since the difficult period of recent years created new problems, both of an immediate nature and of a permanent nature. The abnormal sort of situation did not foster normal research. It is so, however, that in 1979 at the Main MO [Citizens' Militia] Command, an extremely professional report was prepared regarding the state of crime. It contained recommendations



that show that its authors had the ability to predict the future. It is time for a similar document to be prepared today that is fully factual and presents the tasks and prospects for countering crime. Only then will we be able to assess the area covered by the execution of the tasks of the criminal law now in effect and the area in which changes must be made, as well as the directions of such changes.

Immediate actions cannot include changes in the criminal law system; a certain distance is necessary for such changes, as well as the necessary familiarity with the subject matter. Changes in the system cannot be made freely; the essence of the legal regulation lies in the fact that it defines legal obligations in a relatively permanent way. Reality cannot be tailored to one's imaginings about it, but rather vice versa. The amending of the regulation in article 243 of the kk [criminal code] in 1983 is an example of such an errant method of reforming the law. It became evident that the legal incentive for detecting corruption, through those paying bribes, had no effect on the detection of this type of crime.

No extensive research is necessary to demonstrate that the detection last year of several thousand cases of bribetaking departed sharply from reality and that this "dark number" has become no less dark. The road for battling the crime of official bribery, without doubt a dangerous crime for the legal order, did not lead in this direction.

The given example is not isolated, but it illustrates that all legal regulations must emanate from the proper understanding of reality and must develop instruments that are suited to the solution (minimalization) of negative phenomena.

Currently a discussion is taking place on changing other criminal law institutions without having the proper theoretical-research foundation.

What is such an authoritative basis for ushering in such changes? In my opinion it is, above all--

#### Research of the Policy of the Application of the Law

By researching the policy of the application of the law I mean researching whether it has been applied in full, and if not, then why not and could the full application produce socially desirable results. While such a practical study cannot be indifferent to statistics, it should not make a fetish out of them. Currently generated information on the operation of the apparatus for administering justice cannot perform any teaching role, and sometimes is harmful to society's legal awareness. Let us call to mind the famous trial of Maciej Szczepanski and others. Initially, the perception of public opinion was based on the convention that both the main "hero" and his colleagues were a representative example for all the most grievous offenses of the 1970's. According to this picture, everything was so simple that the court proceeding appeared simple. Here the mass media showed themselves to be a useful ally in informing society properly and in showing the complexity of the trial conducted by the famous, unfortunately now deceased, judge Michal Kulczycki.

Day after day, month after month, they demonstrated the complexity of this process, the process of administering justice in general, without regard for one's personal attitude to the accused.

If we summarize the statistical results of the judge's work, we may charge him with having been too liberal, i.e., too many conditionally suspended sentences and conditionally dropped proceedings. But how do we reconcile with such criticism the fact that the so-called return to crime in these cases is extremely low? Who is right, those that speak of the erroneous methods of punishment from the viewpoint of the law of large numbers, or those that sit in the judge's chair, amid generally dismal local and organizational conditions and, seeing a living human being, attempt to adapt the meting out of the penalty to him in their concern to reduce crime? Of course, this does not alter the fact that in sporadic cases, the wrong penalty may be handed down.

The means of so-called extra-instance supervision have been created for this very purpose--to make corrections in practice where needed. However, a significant number of such special retrials with sentences against the accused may lead us to reflect in two directions: that judgments to date have been too liberal, and that the architects of criminal policy for some reason have failed to consider such judgments. Differences are understandable in arguments on the interpretation of the law, but in arguments about the selection of a punishment in a concrete case, the issue is somewhat more complex. Sometimes one even gets the impression that the handing down of a penalty during a special retrial, naturally isolated from contact with the accused, from the impression left by the course of the hearing in the first instance, is too objective in nature. The rule is that in this hearing in the first instance, a social agent participates in the ruling. These are the councilors. Since they must trust judges even in strictly professional matters, in matters of the administration of justice they do not have problems of that great a degree of difficulty. Then what causes

#### The Considerable Divergence

between the generalized assessment of penal policy and rulings in specific cases?

Leaving aside the argument about which of the legal directives for administering penalties is more important (in my estimation, all are equally important), there is certainly no doubt that the consideration of the impact on society of a penalty, which consideration is inscribed into our penal law, must be taken into account. If penalties meted out with regard to the perpetrators of crimes can help to reduce crime in general, if they are able to help curb crime, at least minimally, then certainly we must take advantage of this opportunity. A state that did not wish to take advantage of the deterrent function of penalties would be left intolerably helpless. However, this deterrence is of a limited nature. Unfortunately, society is not aware of this. It has not been made aware properly of what has long been known in criminology, that punishment serves as a deterrent only to a certain extent, beyond which indifference is engendered and the curve of effectiveness declines rapidly.

This directive of punishment cannot be separated from others, especially the directive of special prevention, i.e., using the proper punishment to have that effect on the individual that maximizes the prospects for his acting in accordance with the law. Such a judicial assessment derived from direct contact with the accused cannot be replaced by the method of distant examination.

Thus, the social consciousness must have an awareness not only of the danger of crime, but likewise of the concept of countering crime, constructed not only for the operation of the state apparatus, but also for society's cooperation. The awareness of the disorder itself is not equal to either diagnosis or therapy. That is why it is necessary to prepare a socially comprehensible program for battling crime that defines in a competent way the current state and causes of crime as well as the methods of acting in their various forms and on various planes, along with the appropriate assessment of which penal-punitive measures will be advisable and useful in which areas.

While social development in Poland has its own specific nature and its own determinants, it also has certain universal problems. Worldwide demands are being made for more effective laws, particular criminal laws. The need for the broader consideration of measures other than imprisonment is also being noted. In Poland, however, there is

#### A Somewhat Different Trend

Not without reason during last year's Sejm debate over the subject of law and order, it was hailed as an achievement that despite problems related to the crisis, the overall number of the so-called prison population had declined considerably. By comparison with the end of the 1970's, it had declined by one-third. Today this number is growing. Of course, the total number of the prison population need not prove anything, although in Poland it continues to be high. If the current increase corresponded to the increased detection of crime, then despite misgivings about the generally high number, there would be no cause for criticism.

When detection declines, however (along with the simultaneous lengthening of the duration of the proceeding), or in any case it does not increase significantly, while the prison population grows, then such a situation causes us to wonder. The lack of a real impact on curbing crime also causes us to wonder.

But when we must set up a program for battling crime and then implement this program consistently, we must compare needs with possibilities. The truth is that the number of penal institutions is not growing, and cannot increase under present circumstances. On the contrary, the underinvestment of the prison program cuts back the past program. The shortage of cadres is likewise felt by the legal profession in the areas of the prison program, the militia, the public prosecutors offices and the courts. This is also why while we as citizens cry out to the district militia more and more often, we see them less and less. Many cases are beset by long delays, and sometimes they are postponed due to a lack of militia escorts and a shortage of them for the hearings of the accused. MO officials that conduct inquiries and investigations are

overburdened; prosecutors supervising or directly conducting inquiries and investigations are also strained to the limit. They do not have time for preventive measures.

Overburdened institutes and institutions are not keeping up with deadlines. This causes research and experts' reports to be greatly delayed. In criminology laboratories the crisis is felt in the lack of reagents imported from abroad and in the aging and deterioration of equipment. Here and there tables and graphs still hang on the walls of court secretariats; some courtrooms still have specially built equipment for typing (to reduce noise), but these are unfortunately the sad reminders of a time past.

One may say that the battle against crime cannot be adapted to the number of militiamen, prosecutors and judges or to the technological equipment we have and, theoretically, he will be correct. But no accounting can be made of any activity by demonstrating only one side--the needs, without also indicating the possibilities. In a rational system of management,

### The Principle of Realism is Binding

However, it does not replace the search for the facts. For the future, we also will have to perceive the need to increase investments in the administration of justice but also to optimize them. Let the results be somewhat more modest, but let them be apparent; let them at least mark the degree of positive change.

Until recently, it was popular to consider the subject of the social costs of the administration of justice, understood according to the spirit of the times: one-sidedly and superficially. However, this does not change the fact that we must once again speak of the social costs of the administration of justice, both financially and--although it is more difficult to measure--socially. It is a matter of both finances and the right attitude to the law and lawyers.

The administration of justice was socialized through the introduction of councilors. Thus, it is generally not only the agent of the state that decides the content of decisions, but also the social agent. There is no institution in Poland that is excluded from social control, nor can there be such an institution, the administration of justice inclusive. However, the administration of justice must be spoken of comprehensively and dispassionately. In every human activity there are errors; nor can activities in the area of legal protection be free from error. Thus, without overestimating individual cases, the administration of justice amid social realities must be implanted in the social consciousness. This includes criminogenic drunkenness and alcoholism, not at all curbed by good laws and taking advantage of a sort of public tolerance, the breakdown of social ties, the increase in aggressiveness and decline of good will, the weakening of deterrent functions of the moral and ethical systems and the division of society into "us" and "them," in the light of which "they" are obliged to resolve problems and to eliminate the threat of crime.

This reality gives rise to the impossibility of detecting and proving a number of crimes and of breaking down the barriers of criminal solidarity, but above all of indifference, of the unwillingness to get involved if one is not threatened personally.

Cesare Beccaria, the great Italian thinker and lawyer, in his famous work (whose title, "On Crimes and Punishments" I borrowed for this article), wrote 220 years ago:

"Would you like to prevent crime? Then try to make the laws clear and simple, making the strength of the nation joined together in their defense and not allowing even one part of this strength to be directed towards their extinction."

This idea is still current. Let us join together the strength of the nation, not in idle complaints that everything is wrong, but in strict observance of the good in obeying laws, in the everyday creation in the workplace and in the home of conditions for living in calm and safety. Let us learn what our obligations are in this regard, both publicly and personally. The system of social organization is characterized by this, that each of us is its link and each of us is jointly responsible for the proper functioning of the entire system.

#### Public Debate Encouraged

Warsaw POLITYKA in Polish No 18, 5 May 84 p 6

[Article by Stanislaw Podemski: "The Chief Witness"; material enclosed between slantlines enclosed in boldface]

[Text] /In "Severity for All?" Tadeusz Kucharski (TU I TERAZ, No 12) presented the entire history of postwar criminal legislation directed against thieves of public money, including periods of demonstrated severity as well as those of moderated severity, in order to prove that the outcry for ever more severe punishment is not all that new and that the harvest of that outcry is not extraordinary. The TU I TERAZ editorial office put a cautious and significant distance between itself and the article of its staff member. It hid behind the screen of calling it an "article for discussion" and proved in that way that, in a difficult period for the country at a time when there is a quest for quick, simple, universally comprehensible answers, weighty suggestions should be treated with care./

Fortunately, the publication of extensive proposals for three laws (on changing certain regulations of the criminal code procedure, housing law and the law on increasing safety and discipline on the Polish State Railways) in the daily RZECZPOSPOLITA, combined with the call for popular reactions, indicates the healthy skepticism of the authorities and their desire to subject these first drafts prepared by a small group to the assessment of life experience and the general morality and sense of the law.

The road is far and long from the initial proposals of laws to their issuance in the DZIENNIK USTAW. It leads through interministerial adjustments, the Council of Ministers and the Legislative Council, numerous Sejm commissions, the Sejm Socioeconomic Council and finally the Sejm itself. This affords time to give consideration to goals and the ways of attaining them, as well as to whether sometimes some of them diverge from other, equally important ends.

#### One out of Eight Has Done Time

One of the employees of our penal institutions sent POLITYKA his attempt at journalism, in which he writes: "estimates are that every 12th or 14th adult male has spent part of his life in prison." If this is true, it is not only because the penalty of imprisonment was and still is used too hastily, but also because criminal law punished too freely what it could and what should have been resolved another way that was not at all worse for attaining the goal. Scholars call this tendency the "criminalization of life" and show how easy it is to make someone into a criminal and how difficult it is to remove this stigma from him, as well as the high social cost of this tendency. The decree on safeguarding socialist work discipline, from upwards of 30 years ago, that intended to use penal methods to eliminate all employee crimes, is today a classical manifestation of this tendency, that collapsed more quickly than it was born.

Imprisonment is the worst possible school of life. Of course this is banal, but each year it is upheld by those that are sentenced to imprisonment. Nearly 45 percent of those imprisoned have already been admonished once by the courts and the criminal code. (Hence, the statistic that every 12th or 14th adult male has done time is deceptive.)

To imprison or not to imprison? That is the--not only Polish--question recently argued by two experts in GAZETA PRAWNICZA--Professors A. Marek and J. Bafia. While Prof Marek says: "The failure of resocialization causes a relapse into crime, the relapse causes a stiffer sentence, and this causes a subsequent failure and we go spiraling along at a mad rate," (GP [GAZETA PRAWNICZA], 16 December 1983), Prof Bafia roars that "this is not so" and notes that, first: in the 1970's, we had fewer habitual criminals than during the previous decade (by several thousand each year), and second: the until recently preferred method of fining lawbreakers also did not have any effect and not only he that was imprisoned returned to crime, but often he that paid a very stiff fine (GP, No 5, 1984). Professor Bafia does not note, however, the following important point: during the decades under comparison there were fewer people returning to crime, but almost half as many people were in the prisons serving brief sentences of up to one year.

This interesting debate also omits other possible choices, as well as the situation of our prison system. Meanwhile, the report of the minister of justice for 1982 informs us that there where constant supervision is exercised over a person sentenced to a conditionally suspended sentence, this court act of confidence and magnanimity has to be retracted in only 4 cases out of 100. It is evident that the fear of imprisonment works totally effectively, and the risk of error here is slight, warranted and acceptable.



In the most recent official document of the Ministry of Justice from March 1984 we read: "According to the statistical data, the conditional suspension of a prison sentence is an effective method, since the number of such sentences with regard to which the prognoses of the ruling court have been verified compared to the number of executions of such penalties is very favorable (7.3 percent in 1983)."

According to data from the general prosecutor's office, public prosecutors conditionally suspended 60,000 criminal proceedings in 1982-1983. The positive outcome of such a "contract" with the violator of the penal code sentenced to not more than 3 years is such that for every 100 cases, only in 5 or 6 does the discontinued hearing have to be resumed. In short, /it will pay for the accused to fulfill the terms in the "contract": to get a job, to stop drinking, to make restitution for damages, to refrain from escapades, only not to have to do time. This is an alternative road that does not lead to prison./

PRAWO I ZYCIE (No 14, 1984) characterizes today's prison situation and the numbers of its instructional personnel in this way: "The condition of buildings is dismal. Many facilities are a sort of monument from the 18th and 19th centuries, lending themselves more to renovation than to use... The prison system is not an isolated refuge within society. The conditions prevailing in this field are always worse than the overall situation. Thus, if the economy is suffering a crisis, then in the prison system we have this crisis squared... The standards stipulate that each teacher is supposed to deal with 75 inmates, and when they are habitual criminals, the groups are supposed to be smaller. The reality, however, is that the educator has 200 to 250 inmates that he cannot even remember, let alone get to know, because of the extensive rotation" ("Dobry wiezien czy uczciwy obywatel" [The Good Prison or the Honest Citizen] by Ewa Wielinska). This, together with the fact that for years experts on the issue have believe that the sentence of imprisonment's resocialization effectiveness is limited in time (it is calculated variously from 6 to 8 years), is viewed by the publication of the Polish Lawyers' Association with a sense of powerlessness--"This conflicts with society's sense of justice." The fact is that "society's sense of justice" must be accompanied by knowledge of the issue and this does not allow us to fill the prisons beyond capacity and to suddenly abandon already tested methods. If penal policy does not strictly differentiate criminals and crimes, then sooner or later there will be no prisons for those that should be locked up (murderers, swindlers and bandits), and then the periodical emptying of penal institutions sinks to subsequent amnesties. This is demonstrated by the entire rich history of postwar acts of mercy, so extensively and accurately described by the now deceased Mieczyslaw Szerer in his final article for POLITYKA (No 45, 1981).

Theft on the railways is an extremely detestable nightmare of our times. A tractor in transit from the factory to the place of sale is stripped not only of small parts sought after by consumers, but of tires as well. Those that do this must be rapped sharply on the knuckles. However, punishing every railway theft, even the slightest one, by sentencing the perpetrator to at least 3 years of imprisonment (as proposed by the draft law under discussion), and sentencing PKP employees to 5 years in prison will put behind bars for years both the railroad employee that has stolen a few oranges and the person that

has used a crowbar to jimmy open cases of alcoholic spirits and televisions in transit. This puts the judge in the moral situations well known from the great economic trials of 20 years ago. A guard-caretaker that accepted a bribe of a few hundred zlotys to keep quiet had to get 5 years and got it, because he was responsible by law for the entire value of many millions of zlotys of what was being removed from the plant by the director-thief and his cronies. The senior court officials from Warsaw and Kielce where these trials were held remember well what the public gathered in the courtroom cried out when the sentence was read. The crowd opposed theft, but it did not favor a club in the hands of a judge.

#### The Meanderings of Independence

The resolutions of the Ninth Extraordinary Party Congress are very concerned (and rightly so) over the independence of the judge and his protection against "parochial interests." There where the judge cannot choose the form of punishment, for he is replaced by prior categorical orders of the law, his independence becomes restricted. In reporting the deliberations of the Ministry of Justice administrative body (issue from 30 March 1984), RZECZPOSPOLITA states: "One of the discussants, referring to opinions rendered by judges, said that they treat some proposals for legislative changes as a vote of no-confidence addressed to him."

Some local authorities demonstrate a special lack of discretion. In GAZETA POZNANSKA from 27 March 1984, there is a resolution that includes the following passage: "The organs of the administration of justice are making the penal policy stiffer..."

According to the proposals, the use of provisional arrest against every perpetrator of railroad theft is to be compulsory. This likewise puts the judge in the position of accepting what has been established previously by the prosecutor, even though statistics show that in one case out of ten, the judge does not share the prosecutor's opinion and withdraws the imprisonment order of the arrested person. These are modest reports, but they concern the freedom of several thousand people. In a lawyers' discussion published in GAZETA PRAWNICZA (No 6, 1984), a lawyer, member of the officials of the supreme advocates' office, said: "Not so long ago, I was the defender in a case before the courts in Lomza, where the Supreme Court revoked a sentence and acquitted the accused, justifying this by saying that from the beginning there was no basis for the arrest, and the accused sat in prison for 25 months."

The official assessments of the authorities that administer justice complain of the numerous errors that are made, committed through the meting out of fines, prison sentences and the like. We must realize that categorically formulated regulations that do not offer the possibility of choice and the need to justify the choice that is made are the best alibi for blunders from which no one is free, including prosecuting and judicial authorities.



## Eviction to Ustrzyki?

/The proposed changes in the housing law likewise aim toward a noble goal: to stop the devastation of residential dwellings. Everyone applauds this./ Hence the provisions that favor the easier eviction of vandals, the expansion of the duties of housing complex boards and the stiffer penal rigors applied against lazy superintendents and unconcerned administrators. /However, is not the punishment by arrest, imprisonment or a fine, used against the director of an enterprise or the chairman of a housing cooperative that does not enact regulations with regard to superintendents and administrators the taking of criminal law into an area in which firing from one's job, humiliation and withdrawing bonuses are enough?/ Why should the chairman of a housing cooperative be punished for violating his duties, while the director of a plant, a wholesale establishment or a PGR [State Farm] can walk away, with no less guilt, with a reprimand, a loss of bonuses or a loss of his position? The law must be of a piece say numerous documents, and they are right a hundredfold.

Until now the eviction of someone that destroys an apartment to some other residence took place within the scope of the same locale. According to the draft of changes in the housing law someone evicted in Warsaw can be transferred not only to Gora Kalwaria, but even to Ustrzyki! However, once again experience teaches us that /all attempts to raise up someone from the so-called fringes of society end in protest and the abandonment of such a plan./ The new law on people's councils that begins to take effect from mid-June 1984 will allow for an even more effective defense against such foundlings. In addition, throughout the entire country, people have been waiting sometimes for years for 15,000 eviction sentences to be executed. There is a shortage of housing (even barracks) not only in Warsaw, Krakow, Gdansk and Poznan, but also in small towns and hamlets. A unfeasible regulation adds no splendor to the law.

## The Court Judgment Is Not an Express Train

The stiffer the penalties, the more abounding in guarantees for the person being tried should be the path of arriving at the sentence. Unfortunately, this is not a shared view and this is expressed through the proposal to expand the so-called accelerated proceeding and to extend it to many groups of crimes. It has been part of Polish criminal procedure since 1958, but until now it was used only with regard to such hooligan-type crimes as assault, the use of force, break-ins, insults and vandalism. The legislative proposals are farreaching and aim to judge quickly and without procedural ceremoniousness speculators and crooks, those taking part in fights and some economic criminals, participants in public gatherings and moonshine producers, as well as other usurpers of the law.

What is meant by this accelerated proceeding? Instead of the prosecutor's bill of indictment, an extensive militia notation on the crime will suffice; once such a sentence is handed down, it must be revised within 3 days, and not within 2 weeks from the time that the justification is handed over, as is normally the case; arrest in such a proceeding is compulsory and the court decision is made by one individual, without the participation of the councilor. An appeal is recognized not by the voivodship court, but by this same regional

court, only by another judge and with the participation of a councilor. In such a proceeding, imprisonment can be for 3 years, and a fine can reach 200,000 zlotys.

This is merely a brief outline of the most important elements of this truly express-type court proceeding. In RZECZPOSPOLITA, 30 March 1984, an industrial electrician and an engineer from a scientific institution assessed these proposals that say that in all these often especially complex cases (for example, the controversial questions of evidence in trials of fights have entire scholarly treatises written about them), even a councilor could make judgments, if he had experience and a law diploma: "Here they exaggerate," "Legal preparation and many years of experience will never replace judges."

Moreover, a councilor will not be able to hand down rulings himself also because the Polish Constitution that establishes the make-up of the court does not permit this. The non-experts interviewed by RZECZPOSPOLITA demonstrated a heartening rationality and sense of restraint here. Tadeusz Widermanski, an electronics engineer from the POLON Nuclear Engineering Plant in Warsaw, said: "It is wrong to bring in the accelerated proceeding even in cases of the crimes that threaten society the most. Great haste often means errors and it is easy to blunder in a direction that is impossible to correct, since the group of judges has only a few days to assemble all the proof of guilt. Of course, the question of provisional arrest is linked to this. As I stated, it is easy to err and if, for example, a man that was arrested unjustly is acquitted, this fact does not escape the attention of the milieu from which he comes." So much for the engineer's opinion.

What does Gaberle's 200-page monograph have to say about this subject? The vast majority of judges, participants in accelerated trials, are of the opinion that this procedural process does not enable them to truly become familiar with a case--this is the most important assessment. Here is the typical statement of a judge from the survey: "Haste in conducting a proceeding is advantageous from the viewpoint of statistics, but not from the viewpoint of administering justice, i.e., sentencing someone that really is guilty." The final conclusions of the work: "In the current accelerated trial, viewed from the aspect of practice (not the law), there arise too often such characteristic situations as: the failure to inform the accused of the contents of the charge against him, the limiting to a minimum and sometimes even the outright elimination of the possibility of the accused to make suggestions and statements and to make use of the help of a defender, the elimination of the openness of the hearing (private office hearings) and the rundown of the case in the absence of the prosecutor with the complete passivity of the defendant, which leads to the essential grouping of the functions of prosecuting, defending, becoming familiar with and deciding the case in the hands of one member of the court."

Thus, it is no wonder that the minister of justice's experts commission that toiled for a year over making changes in the criminal procedure turned not to expanding the accelerated trial, but rather revised it to make it legal. The commission was composed of practitioners and representatives of scholarship from the various centers around the country. The commission's draft law was announced as an official publication and to date no one has questioned it, but rather it has become recognized as the basis for future work and discussion.

The crowning evidence that must be considered as we opt "for" or "against" the announced proposals is the many years of experience in administering justice. This must take precedence over the restlessness of even the best wishes.

HISTORIAN INTERVIEWED ON INTERWAR YUGOSLAV CIRCUMSTANCES

Belgrade NEDELJNE INFORMATIVNE NOVINE in Serbo-Croatian No 1738, 22 Apr 84  
pp 27-29

[Interview with Dr Djordje Stankovic by Teodor Andjelic: "Yugoslavia Without 'Carrying Over' Squabbles"; date and place not specified]

[Text] "Those who do not understand the past will have difficulty understanding the present and anticipating the most immediate future," we were told at the outset of this interview by Dr Djordje Stankovic, whose study "Nikola Pasic, saveznici i stvaranje Jugoslavije" [Nikola Pasic, the Allies and the Creation of Yugoslavia], published by Nolit of Belgrade, has just been published. Dr Djordje Stankovic believes that it is not even possible to live only in the present: "The generations that have passed on rule our consciousness with extraordinary force: those who do not understand this have poor judgment, and this must necessarily have an impact on the entire social climate."

[Question] "The pressure of the dead on the living" is certainly much greater until scholarship demystifies it. The 1918 creation of Yugoslavia is at the center of your study. Few other periods in our past have received such contradictory assessments by scholars and politicians both in Yugoslavia and abroad. It would appear that differing ideological and political convictions are by and large the cause of the opposed judgments. How does one account for such contradictoriness and the errors, confusion and manipulation--within scholarship and outside it--when it comes to the creation of Yugoslavia?

[Answer] It seems to me that two phenomena should be emphasized on this occasion: 1) the creation of the Yugoslav state is objectively full of contradictions, and 2) Yugoslav historiography or, better to say, the historiographies of its nationalities, have been under strong pressure of ideological needs, have extended the life of those contradictions and have reduced them to an event in day-to-day politics by the outdated, traditional and positivist method of studying political history.

[Question] Yugoslavia is a complex state which came into being from unequal parts.

[Answer] There is not a single example in history in which complex states were created from ideally equal parts with respect to the size of population and geographic area, or of equally developed parts in the economic, social, cultural and political sense. Least of all is this the case of the Yugoslav community of nationalities. Diverse nationalities and ethnic minorities entered into the framework of this state without sufficient knowledge of one another whether we are referring to purely cultural relations or to political and economic relations as well, with a differing level of historical development--some had their own independent states, others were under foreign domination. And, most important for the Yugoslav situation today, the process of national integration was at different levels and was occurring at different rates. The writing of history is functionally related and almost bound up in its destiny with precisely those phenomena, which is one of the reasons why it had to become so politicized.

In the introduction to my study I have explicated this problem at some length. Political historiography, be it traditionally positivist or, as I call it, Marxist-positivist, out of a desire to objectively reconstruct the past as a photographic plate, perpetuates and very successfully carries over into our historical consciousness the old myths and political squabbles, without affording a possibility of understanding them more profoundly. By accentuating the contradictions, sometimes to absurd lengths in some examples, political historiography becomes a material that can be used for day-to-day political purposes. Let us not forget that certain historical processes initiated at the time when the Yugoslav state was created have not yet been completed and constitute sensitive tissue under the microscopic observation of both scholarship and politics and above all by the uninformed public.

Given the unequal level of integration of the nationalities, in certain parts of Yugoslavia historiography is still functionally bound up with that process, while in other places it has already turned toward rational study of historical processes from global Yugoslav points of departure. Errors and confusion, indeed even manipulation, just as much within scholarship as outside it, belong to the sphere of a reduced social consciousness when it comes to creation of the Yugoslav state and its survival, regardless of whether we are referring to the ethnic or the class segment of that consciousness. In that sense the "policy of equilibrium" which that reduced consciousness always wishes to apply has an adverse impact on the "social climate" and inter-ethnic relations, and is becoming more and more baneful to scholarship. The inroads of nationalism are a direct product of it.

[Question] The processes you speak of are of "long duration." Can they be understood at all if we do not study them as such?

[Answer] World War II cannot be understood any longer without World War I, the year 1941 in Yugoslavia can no longer be understood without the year 1918. Those are two Yugoslav crossroads which are cross-related. Does the unification on 1 December 1918 lose its historical meaning and progressiveness just because it was a product of the bourgeois class? All the nationalities disenfranchised in Yugoslavia between the two wars achieved full ethnic affirmation precisely through the Yugoslav revolution, not through some other

revolution! Sowhy, then, do we protect the assailants with the Comintern syndrome of "Versailles Yugoslavia," "Yugoslavia as a prison of the nationalities," and "Great Serb bourgeoisie," when as "apologists of the correct ideas" they are making a direct assault on the vital interests of the nationalities and ethnic minorities of Yugoslavia?

There is no dispute at all that the Serbian bourgeois class had political supremacy in the Yugoslav state. What is debatable is projecting that political supremacy when necessary to the entire Serbian people, it is debatable for no one to be researching the forms and magnitude of "exploitation" over the entire space of Yugoslavia, especially the forms and extent of ethnic oppression (is it possible that the Croat peasants and workers were exploited more than the Serbian peasants and workers?). When one speaks, then, about the pressure on the national consciousness of exploitation, of "unrelenting" centralism and unitarianism, why is there no mention of the disintegrating forces and of their militance and pattern of action? The very idea that scientific research into the "Catholic factor" in the creation, destabilization and downfall of Yugoslavia arouses grave suspicion in certain of our communities. This equally applies to raising the topic of scientific elaboration of the "Serbian governing stratum" (elite) and its inability to ensure "victory in peacetime."

It seems to me that yet another factor has played an important role in creating the errors--the fact that the CPY was for a time riding the coattails of the political slogans of the bourgeois opposition, especially the HSS [Croatian Peasant Party] in the Radic period, and then various "autonomist" [the reference is to advocacy of Dalmatian autonomy] and separatistic organizations. This left a visible trace in postwar Marxist historiography. Can it have been necessary for the American historian (Lempi) to correct us on the theses of the HSS concerning economic exploitation of Croatia, for others to point out to us the inaccurate interpretations of the kruna-dinar change, how the western Yugoslav countries had faster economic development than the eastern ones, how even then the "Albanian question" was only a matter for the political forces of Serbia, and so on? All of these things which I have mentioned come crashing down with extraordinary force precisely on the year 1918.

[Question] How do you see the role of the Yugoslav idea in the creation of Yugoslavia?

[Answer] Whenever communities with a state are created, a conception must first be worked out. This matter is especially complicated in the case of states set up as communities of nationalities. The actual historical materialization of the community depends on how the idea of creating it is conceived, on who are its sponsors, on whether the ideas correspond to reality, on whether they express the interests of those who espouse them.

The idea of Yugoslavia never had the backing of a movement in the formal sense of the word. Its advocates were both individuals and groups, parties and states, young people and scholars, officers and bureaucrats, workers and members of the bourgeoisie. However, viewed as a whole, the idea of Yugoslavia was conceived in an underdeveloped bourgeois society. It was romantically

exalted, politically glorified and disputed, reinforced with scholarship, and painted with the ethnic palette of southeastern Europe. The Yugoslav idea was given clearer outlines and stronger advocacy in the time of the economic and military conflict between the two imperialistic blocs, at a time when prospects were dimming for the national survival of small and economically underdeveloped nationalities. In that sense the political action for the "grouping of related tribes" into a stronger state community, as Pasic put it, was historically conditioned by vital needs.

This was a question of the survival and future of the Yugoslav peoples before the onslaught of German imperialism, which was contesting that survival and that future. That was the universal value of the Yugoslav idea. When we examine that idea from within, then we see that neither sprang up at the same time in all the nationalities in the space of Yugoslavia, nor did it have the same meaning to them all. The uneven development of the various nationalities also brought about heterogeneous projection of their interests in the process of the creation and realization of the Yugoslav idea. It is precisely this complexity of the Yugoslav idea that should be reflected in historical scholarship. The Yugoslav idea is not merely that idea which was born in Serbia, which was expressed in the 1914 Nis Declaration or the 1917 Korfu Declaration. It existed and was making its way, with unequal strength to be sure, in a majority of the Yugoslav nationalities. The Slovenian declaration movement is not less important to the creation of Yugoslavia than the activity of the Yugoslav Committee, nor is it scientific for it to be completely neglected by contrast with the role of Serbia. The declaration movement was just as important for the Slovenian people as for Yugoslavia as a whole, since this was the farthest point that was reached in conceptualizing the Yugoslav idea.

[Question] What was Serbia's role in the creation of Yugoslavia?

[Answer] The Yugoslav lands, in view of the differing level of historical development, furthered the creation of Yugoslavia with unequal strength. As an independent state and international factor, as is in fact evident in the study, Serbia played a decisive role in the process of internationalization of the Yugoslav question. However, Serbia did not take up the role of the shaper of the new state so that the Serbian people would be an exploiter in it in the colonial sense of that time, but above all in order to resolve the Serbian national question. That is how Pasic himself understood and projected Serbia's tasks at that time. In the final phase of the creation of the Yugoslav state, during World War I, Serbia did indisputably possess the actual power which had a decisive impact toward the creation of the Yugoslav state in accordance with its Yugoslav aim in the war. The allies never questioned this on the part of Serbia. In that sense Serbia did take upon itself the historical responsibility for the creation and survival of the new state. Historical science should in this connection answer the question: Why is it that the forces unable to carry the burden of that historical responsibility prevailed in Serbian society?

[Question] Yugoslav historiography has devoted comparatively little attention to the comprehensive study of the activity and role of various



influential individuals and of their contribution to the specific shaping of the age in which they lived and worked. It seems that historiography has never been so much in debt to our collective historical consciousness as in the case of Nikola Pasic. Stated in so many bold strokes--exactly who was Nikola Pasic?

[Answer] "Bold strokes" are almost identical to a definition, and that is the most difficult part of communicating the results which a scholar has arrived at. This implies first of all that every aspect of the public activity of Nikola Pasic has been empirically researched, along with aspects of a personal nature, and that the researcher has "command" of the huge space of a century in which that statesman and politician of lasting importance has to be placed. As far as Pasic is concerned, the science of history is unable to do this as yet. However, we should not avoid saying everything on which we can at this moment pass the test of criticism. On the basis of what he wove into the processes of history, on the basis of the recognizable traces he left behind him and on the size of the testimony about him, Nikola Pasic is more like a social institution than an individual historical phenomenon. But that is the case with all "great individuals in history."

[Question] Instead of "bold strokes" give us at least a thumbnail sketch of Pasic!

[Answer] A radical rebel and socialist, a liberal bourgeois politician, above all a realistic statesman, the founder of the Radical Party and its leader for all of 45 years, the most persistent fighter against the Austrian policy of the Obrenovic dynasty, the advocate of a constitutional and democratic parliamentary system, one of the most important figures in Serbia's economic, political and cultural rise in the period 1903-1918, one of the most important factors in the creation of the Yugoslav state, but at the same time one of the most conservative of its custodians following 1918....

In day-to-day politics he operated pragmatically, when he projected "national policy" he was excessively utilitarian and sometimes ethnocentric; he was always extremely well-informed about everything, he knew how to use the most able minds of his time; he was a poor speaker, but his speeches were wonderful examples of deep penetration into the problem either of the party, the nationality, the state or international relations; his personal papers--telegrams to emissaries "abroad," notes, memoranda, speeches in parliament and public speeches, and various notes--reveal a politician and statesman submerged in the fine and precise mechanisms of day-to-day politics; however, his overall political activity and statesmanship, woven into historical practice, reveal an intelligent political thinker whose projections of the future have a sound foundation in the past and present, and they reveal one of the greatest statesmen and politicians that this area has ever had. So, still controversial, Pasic does not allow others to picture him briefly in "broad strokes"!

[Question] What in general is the attitude of modern Yugoslav historiography toward our bourgeois society and our bourgeois politicians between the two wars?

[Answer] I stated this clearly and unambiguously last year at the 8th Congress of Yugoslav Historians: even now it is excessively utilitarian and the theoretical-methodological approach to study has been turned on its head. It will be difficult to even imagine any very significant advance in our knowledge unless we study bourgeois society and the historical figures which it gave rise to from other theoretical-methodological points of departure, above all those which make it possible to comprehend the entirety of social development or the development of an individual. It matters not whether we call that social history, total history or global history.

[Question] There is an immense literature on the causes of the outbreak of World War I (in 3 months it will be 70 years since its beginning). World research has been especially rich, including research which put the blame for World War I on Serbia, on the Black Hand, and the like. What is the modern scientific knowledge about the causes of World War I?

[Answer] The modern knowledge has pursued two directions in the last two decades: 1) certain assumptions about the role of Germany have been confirmed (a revolutionary turnover in German historiography!). This especially applies to the works of Fritz Fischer ("Aspiration to World Power") and Immanuel Geiss, and 2) West European and American historiography, especially French historiography, which have been researching with more sense and effort the economic, social and cultural phenomena in Europe which led to World War I. In that sense Serbia as the party to blame for the war is being left more and more on the margins of works by uninformed journalists or historians whose learning is deficient. Yugoslav historiography, however, hardly seems to have moved beyond Vladimir Dedijer's "Sarajevo 1914." Incidentally, there is nothing strange about that. As far as I know, there is not a single historian in Yugoslavia who has made World War I his specialty!

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## 'WITCH HUNT' IN ELEMENTARY SCHOOL DEPLORED

Belgrade OMLADINSKE in Serbo-Croatian 29 Apr 84 p 9

[Commentary by Slavica Urosevic: "Hostile Snowflakes Are Blowing Around"]

[Excerpt] Everything that has been happening in Kragujevac in recent months might have been better than any joke if sociopolitical organizations, the Secretariat for Internal Affairs, and even the State Security Service had not become involved in the events.

In the Zivadinka Divac elementary school in Stanov, a settlement on the fringes of Kragujevac, pupils were making New Year's greeting cards in art class just before 1 January, in this instance in honor of the Olympics using snowflakes as a theme. The work done by Zoran Djoric, a pupil in class VIII/6, was among the best. The art teacher marked it very good, the principal signed off on it and forwarded it to the Little Bees local association. What happened next is the best indication of the extent to which social self-protection is deeply rooted in the consciousness of our ever-vigilant and responsible citizens.

"I was at my morning shave when the pupils brought the greeting card," says Ljubomir Sagic, secretary of the basic LCY organization in the local association and chief "hunter" in this case. "I put it on the table. My wife, who is otherwise uninformed on this topic, looked and said, 'Ljubo, there is a swastika on this greeting card.' I looked and saw that there was not only a swastika but also some other symbols, branches, a chessboard." Sagic joined several other sociopolitical workers from the Little Bees local association in going first to the school, where they found no one (closed for vacation), then to the Secretariat for Internal Affairs, which forwarded the greeting card to the State Security Service. The latter, although it "does not concern itself otherwise with such matters," nonetheless analyzed the greeting card and came to the conclusion that there was indeed a swastika in the drawing but that no hostile act was involved in view of the pupil's level of consciousness. Penalties were left to the discretion of the school, for which the State Security Service report was a green light for punishing the "guilty parties"--the pupil, the art teacher and the principal.

The farce continues. The art teacher and principal were given party penalties, while the instructors' council, which never saw the greeting card in question, first decided to transfer the pupil to another school (the penalty of expulsion does not exist) but then changed the original decision to an unsatisfactory

grade in comportment after the principal announced that he would resign if the transfer went through. In other words, the pupil had received two marks for the same work.

Excessive zeal in rooting out what is hostile and dangerous has the same serious consequences as a delayed response. The resurrected hunger for a witch hunt, which seems to intensify between the morning shave and preparations for lunch, can only engender a fear that does not suit our system and society. If the slightly hysterical remark of an uneducated housewife, with the help--to make things worse--of a party official who happens to be her husband, could bring about this whole mess and set in motion the whole mechanism of society, then we have obviously failed somewhere, as human beings first of all, since a child has been left holding the bag.

We learn from the latest issue of the local paper SVETLOST that the editors have received an anonymous letter warning that "things are being covered up": "The scrawled grafitti KOCA (Kosovo is waiting for Albania) and DARE (give the Albanians a republic) have been visible in the Aerodrom community for a long while without anyone reacting." We learn from the official report from the Secretariat for Internal Affairs that the "graffiti" were written by two youngsters, one of whom is surnamed Kocovic and the other named Darko. What is "Anonymous" afraid of?

CSO: 2800/352

END